

IN THE COUNTY COURT, FOURTEENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR BAY COUNTY

STATE OF FLORIDA,
Plaintiff,

v.

CASE NO.: 14-5440 MMMA

GARY WAYNE BECK,
Defendant.

ORDER DISMISSING CASE

THIS CAUSE having come before the Court on September 22, 2014, for status review on the defendant's pending motion to dismiss, and the Court having considered the case law cited by defendant in support of the motion, and the State having proffered no traverse or demurrer, the Court finds the defendant's motion well-taken in that Sec. 365.16(1) and Sec. 934.03(1), Fla. Stat., does not apply to the Defendant's actions under the circumstances of this case. *See Jatar v. Lamaletto*, 758 So.2d 1167 (Fla. 3rd DCA 2000)(where there is no legitimate expectation of privacy in business office of victim, F.S. 934.03 is inapplicable); *Avrich v. State* 936 So.2d 739 (Fla. 3d DCA 2006)(F.S. 365.16 inapplicable to telephone calls made to place of business); *Morningstar v. State*, 428 So.2d 220 (Fla. 1983), cert. denied 464 U.S. 821, 104 S.Ct.86, 78 L.Ed.2d 95 (1983)(constitutional protection of home does not extend to office or place of business). *See also Bacon v. McKeithen*, U.S. 3rd District, Case No. 5:14-cv-37-RS-CJK, decision rendered August 28, 2014 (recording is constitutionally protected speech where F.S. 934.03 is inapplicable to conduct in question).

It is therefore,

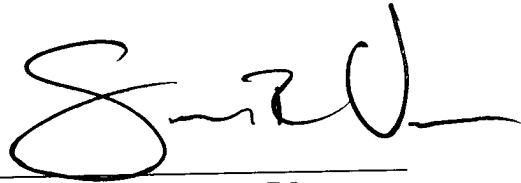
ORDERED and ADJUDGED that Defendant's Motion to Dismiss is hereby GRANTED without further hearing, and the charges of Unlawful Interception of Electronic Communication and

FILED
SEP 23 2014

Harassing Telephone Calls is hereby DISMISSED with prejudice.

DONE and ORDERED in chambers in Panama City, Bay County Florida, this 23 day of

Sept., 2014.

A handwritten signature in black ink, appearing to read "Shane Vann", written over a horizontal line.

HON. SHANE VANN
COUNTY COURT JUDGE

Copies to:
Kim Shouppe, ASA
Ryan Phillips, APD
Defendant