

ORIGINAL

DISTRICT COURT, COUNTY OF EL PASO, COLORADO El Paso County Justice Center 270 S. Tejon Colorado Springs, CO 80901	FILED-DISTRICT & COUNTY COURTS-EL PASO CO., CO
THE PEOPLE OF THE STATE OF COLORADO, v. Terry MAKETA Paula PRESLEY Juan SAN AGUSTIN Defendants.	MAY 25 2016 DIVISION 2 ▲ COURT USE ONLY ▲
	Case No: 16 CR 2675 GJ Case No.: 16 CR 1 Ctrm: 5
GRAND JURY FOR EL PASO COUNTY INDICTMENT	

Of the 2016 term of the Grand Jury for El Paso County; the 2016 Grand Jury for El Paso County, chosen, selected and sworn in the name and by the authority of the People of the State of Colorado, upon their oaths, present the following indictment:

COUNT ONE
02063

EXTORTION; § 18-3-207(1)(a),(b)(I), C.R.S (F4)

Terry Maketa, Paula Presley

COUNT TWO
02063C

CONSPIRACY TO COMMIT EXTORTION; §§ 18-3-207(1)(a),(b)(I); 18-2-101, C.R.S (F5)

Terry Maketa, Paula Presley

COUNT THREE
26121

TAMPERING WITH A WITNESS OR VICTIM; § 18-8-707, C.R.S. (F4)

Terry Maketa, Paula Presley

COUNT FOUR
26121C

CONSPIRACY TO COMMIT TAMPERING WITH A WITNESS OR VICTIM; §§ 18-8-707; 18-2-101, C.R.S. (F5)

Terry Maketa, Paula Presley

2016
MAY 25

COUNT FIVE
03021

SECOND DEGREE KIDNAPPING; § 18-3-302(1), C.R.S.
(F4)

Terry Maketa, Paula Presley, Juan San Agustin

COUNT SIX
03032

FALSE IMPRISONMENT; § 18-8-303(1),(2), C.R.S. (F5)

Terry Maketa, Paula Presley, Juan San Agustin

COUNT SEVEN
24101

FIRST DEGREE OFFICIAL MISCONDUCT; § 18-4-404,
C.R.S. (M2)

Terry Maketa, Paula Presley

COUNT EIGHT
24101

FIRST DEGREE OFFICIAL MISCONDUCT; § 18-4-404,
C.R.S. (M2)

Terry Maketa, Paula Presley


COUNT NINE
24101

FIRST DEGREE OFFICIAL MISCONDUCT; § 18-4-404,
C.R.S. (M2)

Terry Maketa, Paula Presley

The Grand Jury presents the within Indictment and the same is ordered filed.

Dated this 25th day of May, 2016.



Hon. David Prince
Presiding Judge, 4th Judicial District
2016 Grand Jury for El Paso County

COUNT ONE
(EXTORTION – Class 4 Felony)

That between and including September 11, 2013, and November 4, 2013, in the County of El Paso, State of Colorado, **Terry Maketa and Paula Presley** unlawfully, feloniously, and with the intent to induce Correctional Healthcare Companies against its will to perform an act or to refrain from performing a lawful act, made a substantial threat to cause economic hardship to Correctional Healthcare Companies, and the defendant threatened to cause these results by performing an unlawful act or causing an unlawful act to be performed; in violation of section 18-3-207(1)(a),(b)(I), C.R.S.

COUNT TWO
(CONSPIRACY TO COMMIT EXTORTION – Class 5 Felony)

That between and including September 11, 2013, and November 4, 2013, in the County of El Paso, State of Colorado, **Terry Maketa and Paula Presley**, with the intent to promote or facilitate the commission of the crime of criminal extortion, unlawfully and feloniously agreed with each other that one or more of them would engage in conduct which constituted that crime or an attempt to commit that crime, or agreed to aid the other person or persons in the planning or commission or attempted commission of that crime, and an overt act in pursuance of the conspiracy was committed by one or more of the conspirators; in violation of sections 18-3-207(1)(a),(b)(I) and 18-2-201, C.R.S.

The offense alleged in **Counts One and Two** were committed in the following manner:

Between September 11, 2013, and November 4, 2013, as well as before and after those dates, Correctional Healthcare Companies (CHC) held a \$5.2 million dollar contract with the El Paso County Sheriff's Office to provide medical services at the jail. _____ t served as the Health Services Administrator at the jail for CHC prior to her termination on November 4, 2013.

On September 11, 2013, _____ authored a memo documenting inappropriate comments made to her as well as two other CHC employees by an El Paso County Sheriff's Office Commander. On September 12, 2013, Sheriff Terry Maketa called Ms. Habert to express his anger with her over the memo as well as _____ alleged involvement with coaching a domestic violence victim, _____ (formerly _____), who also worked at CHC and was at the time dating an El Paso County Sheriff's deputy. See counts three through six for a more complete factual description of that incident. _____ in May and again in June, 2013, had also previously declined to run Undersheriff Paula Presley's campaign for Sheriff, causing a fracture in her relationship with both Sheriff Maketa and Undersheriff Presley.

In late September or early October 2013, Sheriff Maketa and Undersheriff Presley met with CHC owner _____ and _____ direct supervisor, _____, in Sheriff Maketa's office to discuss _____ Sheriff Maketa and Undersheriff Presley ordered CHC to remove _____ from her position as HSA or they would terminate the contract with CHC. Both Sheriff Maketa and Undersheriff Presley did so with voices raised in a hostile and threatening manner, adamant that their demand be met. CHC subsequently discussed how to remove _____ in an internal meeting despite having no disciplinary or employment issues with _____

On October 11, 2013, [redacted] was placed on administrative leave from CHC and was told it was a result of the Undersheriff and Sheriff. On October 23, 2013, [redacted] met with CHC HR employees to discuss the situation and was informed the suspension was not related to any performance-related issues on her part and that CHC was not provided information as to why her departure was requested by Sheriff Maketa and Undersheriff Presley and that CHC would not have much time to figure out and resolve the issue. On November 4, 2013, [redacted] met again with CHC HR and was informed she was being terminated due to a fractured client relationship and her decision not to run Undersheriff Presley's campaign and the manner in which she approached that decision were cited as examples of that fractured relationship.

COUNT THREE

(Tampering with a Witness or Victim – Class 4 Felony)

That between and including September 11, 2013, and September 12, 2013, in the County of El Paso, State of Colorado, **Terry Maketa and Paula Presley** unlawfully, feloniously, and intentionally attempted, without bribery or threats, to induce [redacted] (formerly [redacted]), a witness, a victim, or a person the defendant believed would be called to testify as a witness or victim in an official proceeding to testify falsely or unlawfully withhold any testimony in violation of section 18-8-707, C.R.S.

COUNT FOUR

(Conspiracy to Commit Tampering with a Witness or Victim – Class 5 Felony)

That between and including September 11, 2013, and September 12, 2013, in the County of El Paso, State of Colorado, **Terry Maketa and Paula Presley**, with the intent to promote or facilitate the commission of the crime of Tampering with a Witness or Victim, unlawfully and feloniously agreed with each other that one or more of them would engage in conduct which constituted that crime or an attempt to commit that crime, or agreed to aid the other person or persons in the planning or commission or attempted commission of that crime, and an overt act in pursuance of the conspiracy was committed by one or more of the conspirators; in violation of sections 18-8-707 and 18-2-201, C.R.S.

COUNT FIVE

(Second Degree Kidnapping – Class 4 Felony)

That between and including September 12, 2013, and September 13, 2013, in the County of El Paso, State of Colorado, **Terry Maketa, Paula Presley, and Juan San Agustin** unlawfully, feloniously, and knowingly seized and carried [redacted] (formerly [redacted]) from one place to another without the consent of the victim and without lawful justification; in violation of section 18-3-302(1), C.R.S.

COUNT SIX

(False Imprisonment – Class 5 Felony)

That between and including September 12, 2013, and September 13, 2013, in the County of El Paso, State of Colorado, **Terry Maketa, Paula Presley, and Juan San Agustin** unlawfully,

feloniously, and knowingly confined or detained [redacted] (formerly [redacted]), without the victim's consent and without proper legal authority. Further, the defendant used force or threat of force to confine or detain the victim and the defendant confined or detained the victim for twelve hours or more; in violation of section 18-3-303(1),(2), C.R.S.

The offenses alleged in **Counts Three, Four, Five, and Six** were committed in the following manner:

On August 12, 2013, El Paso County Sheriff's Office [redacted] and his girlfriend, [redacted] (at the time [redacted] a civilian employee working for Correctional Healthcare Companies at the El Paso County jail, were involved in a domestic disturbance resulting in injuries to [redacted] to include a swollen face and bruising on her arm. The incident was reported the following day, August 13, 2013, to El Paso County Sheriff's employees, ultimately leading to the arrest of Deputy [redacted] for assault. [redacted] was interviewed about the incident on this date by Detective Lisa Kaiser who found [redacted] truthful and sincere in her description of the incident and that [redacted] injuries were consistent with that description. The investigation revealed that [redacted] punched, pushed, and shoved Ms. Trull during the incident, at one point causing Ms. Trull to see stars.

[redacted] had a pre-existing relationship with Sheriff Maketa and following his arrest began talking to him about how he could keep his job as he had been suspended and ultimately terminated following his arrest. On September 11, 2013, while on the phone with Sheriff Maketa, Deputy Garretson handed [redacted] his phone. Sheriff Maketa told [redacted] that she needed to come in to the Sheriff's Office and do another interview and tell investigators that she instigated the incident in order to allow [redacted] to get his job back. Sheriff Maketa indicated [redacted] would not be in trouble for this and would not be arrested. Sheriff Maketa further told [redacted] that someone would call her in a few minutes with further instructions. A few minutes later Undersheriff Presley called and spoke with [redacted], directing her to report to the Sheriff's Office after [redacted] court appearance the next day, to tell investigators that she instigated the incident and was the aggressor, that [redacted] coerced her during the first interview, and that she would not be arrested as a result of the new interview. Undersheriff Presley warned her not to tell anyone about their conversation.

On September 12, 2013, [redacted] reported to the El Paso County Sheriff's Office following [redacted] appearance in court and followed the instructions of Sheriff Maketa and Undersheriff Presley by recanting her previous interview and claiming to be the aggressor of the incident. [redacted] subsequently indicated that she followed the orders of Sheriff Maketa and Undersheriff Presley because they told her to do so. Moreover, [redacted] stated she was attempting to help her still-boyfriend Deputy Garretson by consenting to this second interview. This interview was recorded and observed by various commanders of the El Paso County Sheriff's Office. At the conclusion of that interview, [redacted] was arrested for the crimes of domestic violence Harassment and Driving Under the Influence for her actions on August 12, 2013. [redacted] was booked into the El Paso County jail and ultimately transported to the Douglas County jail as a result of her employment in the former facility. [redacted] spent in excess of twenty-four hours in custody prior to bonding out as indicated by jail booking logs. [redacted] case was ultimately dismissed by the 4th Judicial District Attorney's Office.

When [redacted] was informed of [redacted] arrest via text message, he called and spoke with Sheriff Maketa and Undersheriff Presley. Both the Sheriff and Undersheriff

were aware of the arrest and charges of _____ and indicated that this could help _____ out with his own case.

Detective Lisa Kaiser, the interviewing and arresting officer, did not believe she had probable cause to arrest _____ for either crime, but arrested _____ because the order came from her superiors. Sergeant Robert Jaworski, Detective Kaiser's immediate supervisor, testified that Inspector Juan San Agustin and Bureau Chief Al Harmon ordered the arrest of _____ Sergeant Jaworski also believed that no probable cause existed to arrest _____ Sergeant Jaworski further advised that he was required to go through Inspector San Agustin for any investigative decisions during this timeframe and that Sheriff Maketa and Undersheriff Presley would use Inspector San Agustin to communicate their orders. Bureau Chief Al Harmon also indicated that around this time Sheriff Maketa and Undersheriff Presley would often direct specific steps in investigations and that they would routinely bypass him to go directly to Inspector San Agustin and vice versa as Inspector San Agustin had a close relationship with the Sheriff. Bureau Chief Harmon also indicated that the arrest of _____ was not lawful as there was no blood or breath testing completed or independent evidence of the crime. Bureau Chief Harmon denied giving any such order to arrest. However, both Sergeant Jaworski and Bureau Chief Harmon felt in fear of losing their jobs were they not to follow orders.

COUNT SEVEN

(First Degree Official Misconduct – Class 2 Misdemeanor)

That between and including December 5, 2014, and December 26, 2014, in the County of El Paso, State of Colorado, **Terry Maketa and Paula Presley**, public servants, with intent to maliciously cause harm to _____ unlawfully and knowingly committed an act relating to his office but constituting an unauthorized exercise of his official function; in violation of section 18-8-404, C.R.S.

COUNT EIGHT

(First Degree Official Misconduct – Class 2 Misdemeanor)

That between and including December 5, 2014, and December 26, 2014, in the County of El Paso, State of Colorado, **Terry Maketa and Paula Presley**, public servants, with intent to maliciously cause harm to _____ unlawfully and knowingly committed an act relating to his office but constituting an unauthorized exercise of his official function; in violation of section 18-8-404, C.R.S.

COUNT NINE

(First Degree Official Misconduct – Class 2 Misdemeanor)

That between and including December 5, 2014, and December 26, 2014, in the County of El Paso, State of Colorado, **Terry Maketa and Paula Presley**, public servants, with intent to maliciously cause harm to _____ unlawfully and knowingly committed an act relating to his office but constituting an unauthorized exercise of his official function; in violation of section 18-8-404, C.R.S.

The offenses alleged in **Counts Seven, Eight, and Nine** were committed in the following manner:

The 4th Judicial District Attorney's Office maintains a *Brady* list of law enforcement officers whose credibility may be compromised. The El Paso County Sheriff's Office is required to notify the District Attorney's Office when such information exists in order to ensure that the *Brady* list is complete and accurate. At times prior to December 2014, Undersheriff Presley would attempt to specifically place officers on the *Brady* list because those officers had angered her. This action ultimately culminated in a meeting between Undersheriff Presley and the elected District Attorney to discuss the permissible purposes of the *Brady* list.

On December 19, 2014, just prior to the end of Sheriff Maketa's term as Sheriff, the El Paso County Sheriff's Office sent a memo to the District Attorney's Office requesting to add a number of officers to the *Brady* list for allegations of Departing from the Truth. This list was memorialized in a memo to Sheriff Maketa on December 5, 2014. Three of the officers on that list – _____ had not worked for the El Paso County Sheriff's Office in over a year.

_____ formerly served as the Commander of the Emergency Services Division of the El Paso County Sheriff's Office until his resignation in April 2013. Prior to his resignation, _____ was placed on administrative leave and told he was the subject of an Internal Affairs investigation for several conflicts with Sheriff Maketa and Undersheriff Presley to include disagreement over the After Action Report drafted in response to the Waldo Canyon Fire to critically analyze the performance of the Sheriff's Office during that incident. _____ was never provided documentation about the Internal Affairs investigation, nor was he allowed to participate in any such investigation, in violation of the internal policy of the Sheriff's Office. In fear of losing his job, _____ ultimately resigned from the Sheriff's Office.

On April 8, 2013, the internal affairs file of former Deputy Bill Elder was found to be missing from the Internal Affairs offices by Lieutenant Cheryl Peck. At this time, Bill Elder was a candidate for Sheriff of El Paso County. In early December 2013, an investigation began into the purportedly missing Bill Elder file to include Computerized Voice Stress Analysis (CVSA) of various El Paso County Sheriff's Office employees. The individuals subjected to such exams were known Bill Elder supporters. These exams also occurred despite the fact that Undersheriff Presley subsequently admitted in a meeting on February 20, 2014 that she in fact had the Bill Elder file at home.

On December 2, 2013, Sergeant _____ and then _____ all attended and participated in an exploratory meeting for potential formation of a police union within the El Paso County Sheriff's Office. Both _____ and _____ were known supporters of Bill Elder. Both Sergeant _____ and _____, neither of whom worked in Internal Affairs nor had access to Internal Affairs files, were accused of stealing the Bill Elder file. On December 6, 2013, Deputy _____ was subjected to a CVSA concerning the missing file. _____, a certified CVSA operator, passed the examination. On December 9, 2013, _____ resigned when informed that he would soon be fired for showing "deception" on the examination. The El Paso County Sheriff's Office demoted _____ in absentia following his resignation.

On December 4, 2013, _____ was berated by Sheriff Maketa and Undersheriff Presley for the union organization attempt and was laterally demoted to a less desirable shift. On December 6, 2013, _____ was subjected to a CVSA about the missing Bill Elder file

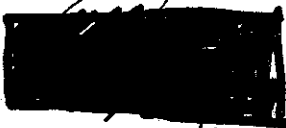
and informed he passed the examination. On December 9, 2013, [redacted] resigned when informed that things were about to get worse for him. Undersheriff Presley attempted to order his termination in absentia following this resignation. Neither [redacted] nor [redacted] had any involvement with or knowledge about the missing Bill Elder file.

Following receipt of the memo from the El Paso County Sheriff's Office on December 19, 2014, the District Attorney's Office requested justifications for including the names on the *Brady* list to ensure that the reasons were in fact legitimate. Sheriff Maketa declined to answer any questions about any of the names and expressed displeasure with the District Attorney's Office for an independent investigation into his list. This was communicated to the District Attorney's Office on December 26, 2014.

[redacted] and [redacted] were not placed on the *Brady* list by the District Attorney's Office at this time, nor had they previously been or subsequently been placed, on the *Brady* list.

INDICTMENT

STATE OF COLORADO)
)
COUNTY OF EI PASO)

Of the 2016 term of the Grand Jury for El Paso County; the 2016 El Paso County Grand Jurors, chosen, selected and sworn in the name and by the authority of the People of the State of Colorado, upon their oaths, present their indictment of JUAN SAN AGUSTIN, TERRY MAKETA, AND PAULA PRESLEY, for the following described acts, all done contrary to the form of the statutes in such case made and provided, and against the peace and dignity of the People of the State of Colorado; as stated in the counts attached hereto. 

Dated this 25th day of May, 2016.

AS TO COUNT ONE, EXTORTION:

TRUE BILL 

NO TRUE BILL _____

AS TO COUNT TWO, CONSPIRACY TO COMMIT EXTORTION:

TRUE BILL 

NO TRUE BILL _____

AS TO COUNT THREE, TAMPERING WITH A WITNESS OR VICTIM:

TRUE BILL 

NO TRUE BILL _____

AS TO COUNT FOUR, CONSPIRACY TO COMMIT TAMPERING WITH A WITNESS OR VICTIM:

TRUE BILL 

NO TRUE BILL _____

AS TO COUNT FIVE, SECOND DEGREE KIDNAPPING:

TRUE BILL 

NO TRUE BILL _____

AS TO COUNT SIX, FALSE IMPRISONMENT:

TRUE BILL _____



NO TRUE BILL _____

AS TO COUNT SEVEN, FIRST DEGREE OFFICIAL MISCONDUCT:

TRUE BILL _____



NO TRUE BILL _____

AS TO COUNT EIGHT, FIRST DEGREE OFFICIAL MISCONDUCT:

TRUE BILL _____



NO TRUE BILL _____

AS TO COUNT NINE, FIRST DEGREE OFFICIAL MISCONDUCT:

TRUE BILL _____



NO TRUE BILL _____

GEORGE H. BRAUCHLER,
18TH JUDICIAL DISTRICT ATTORNEY

By: _____

Mark Hurlbert, Reg. No. 24606
Grant R. Fevurly, Reg. No. 42318
Office of the 18th Judicial District Attorney
6450 S. Revere Pkwy
Centennial, CO 80111
Tel.: (720)874-8500

I, [REDACTED], the Foreperson of the 2016 Grand Jury for El Paso County, do hereby swear and affirm that each and every True Bill returned in this Indictment by the 2016 Grand Jury for El Paso County was arrived at after deliberation and with the assent and agreement to the existence of probable cause by at least nine members of the 2016 Grand Jury for El Paso County.

[REDACTED]

FOREPERSON

Subscribed and sworn to before me in the County of El Paso, State of Colorado, the 25th day of MAY, 2016.

AMBER HUNTSMAN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID # 19964012105
MY COMMISSION EXPIRES JULY 24, 2016

Amber
NOTARY PUBLIC
My Commission Expires: 07/24/16

WARRANT TO ISSUE

BOND SET AT \$10,000 JUAN SAN AGUSTIN

BOND SET AT \$10,000 TERRY MAKETA

BOND SET AT \$10,000 PAULA PRESLEY

[Signature]
PRESIDING JUDGE