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IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR SARASOTA COUNTY, FLORIDA

JOSEPH PETITO and
NICHOLE SCHMIDT,

Plaintiffs,

vs. CASE NO. 2022 CA 1128 SC

CHRISTOPHER LAUNDRIE and
ROBERTA LAUNDRIE,

Defendants.
_____/

MOTION TO COMPEL TESTIMONY OF STEVEN BERTOLINO

COME NOW, Plaintiffs, JOSEPH PETITO and NICHOLE SCHMIDT, by and through their undersigned counsel, and file the within Motion to compel the testimony of the Defendant, STEVEN BERTOLINO, and in support thereof alleges as follows:

1. A significant component of Plaintiffs' Complaint in this matter is that the Defendants, including STEVEN BERTOLINO, were aware that Gabrielle Petito, the daughter of the Plaintiffs, was deceased and knew the location of her body at the time a statement was issued by the Defendants on September 14, 2021, in which the Defendants expressed their hope that Gabrielle Petito would be "reunited" with her family.

2. The depositions of the Defendants, CHRISTOPHER LAUNDRIE and ROBERTA LAUNDRIE, were taken on October 10, 2023 and October 11, 2023, respectively. At said depositions, CHRISTOPHER LAUNDRIE and ROBERTA LAUNDRIE waived attorney-client privilege between themselves and STEVEN BERTOLINO. During his deposition, CHRISTOPHER LAUNDRIE testified that he spoke with Brian Laundrie on August 29, 2021, that Brian Laundrie was frantic, stated that Gabrielle Petito was "gone," and asked his father to get

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him a lawyer. Defendant, CHRISTOPHER LAUNDRIE, further testified that he advised STEVEN BERTOLINO of this conversation.

3. The deposition of the Defendant, STEVEN BERTOLINO, was taken on October 17, 2023. During STEVEN BERTOLINO's deposition, he testified that CHRISTOPHER LAUNDRIE did advise him on or about August 29, 2021 that he had spoken with Brian Laundrie, that Brian Laundrie was frantic, stated that Gabrielle Petito was "gone," and further requested his parents obtain a lawyer.

4. During STEVEN BERTOLINO's deposition, he asserted the attorney-client privilege with regard to conversations with Brian Laundrie and refused to disclose any information he had learned from Brian Laundrie about Gabrielle Petito's well-being and her last location.

5. F.S. §90.502(2) provides that a client has the privilege to refuse to disclose, and to prevent any other person from disclosing, the contents of confidential communications when such other person learned of the communications because they were made in the rendition of legal services to the client.

6. F.S. §90.507 provides that a person who has a privilege against the disclosure of a confidential matter or communication, waives the privilege if the person voluntarily discloses or makes the communication when he does not have a reasonable expectation of privacy, or consents to disclosure of any significant part of the matter or communication.

8. Brian Laundrie murdered Gabrielle Petito on or about August 27, 2021, in the Grand Teton National Forest in Wyoming. Her body was not discovered until September 19, 2021.

9. Brian Laundrie committed suicide on or around October 20, 2021. Following discovery of his body, a notebook was discovered in his backpack in which he conferred to

murdering Gabrielle Petito. A true and correct copy of such letter marked Exhibit "A" is attached hereto and made a part hereof.

10. Because Brian Laundrie confessed to the murder of Gabrielle Petito, the conversation he had with STEVEN BERTOLINO about such murder is no longer protected by the attorney-client privilege as it has been waived by the client. Clearly, Brian Laundrie had no expectation of privacy in authorizing a confession and leaving it in his backpack to be found following his death. See *St. Paul Fire & Marine Ins. Co. v. Welsh*, 501 So.2d 54 (Fla. 4th DCA 1987) ("Attorney-client privilege waived with respect to letter which client voluntarily produced.") It is black letter law that once the privilege is waived, and the horse out of the barn, it cannot be reinvoked. *Hamilton v. Hamilton Steel Corp.*, 409 So.2d 1111, 1114 (Fla. 4th DCA 1982).

11. Since Brian Laundrie has waived the attorney-client privilege based upon the confession he made in his letter, STEVEN BERTOLINO cannot assert the attorney-client privilege and refuse to answer questions about what Brian Laundrie told him concerning the murder of Gabrielle Petito.

12. Even were the attorney-client privilege not waived by Brian Laundrie, F.S. §90.502(3)(e) provides that the lawyer can only raise the attorney-client privilege on behalf of the client. The lawyer may not assert the privilege on his/her behalf. *Rogers v. State*, 742 So.2d 827, 829 (Fla. 2d DCA 1999) ("Although Mr. White has standing to raise the lawyer-client privilege in this case, the privilege is possessed by the client.") See also *Seaboard Air Line Ry. v. Parker*, 65 Fla. 543, 547, 62 So. 589, 590 (1913).

13. In the within matter, STEVEN BERTOLINO was not asserting the attorney-client privilege on behalf of Brian Laundrie, who had already waived that privilege, but rather he is

asserting it on his own behalf in an effort to keep himself from testifying about what he knew at the time he made the September 14, 2021 statement.

14. Because the attorney-client privilege was waived by Brian Laundrie in his confession, and because STEVEN BERTOLINO could not raise the privilege on his own behalf, STEVEN BERTOLINO must be ordered to testify concerning conversations he had with Brian Laundrie regarding the murder of Gabrielle Petito and the location of her body.

WHEREFORE, Plaintiffs, JOSEPH PETITO and NICHOLE SCHMIDT, respectfully request this Honorable Court enter an Order compelling the testimony of Defendant, STEVEN BERTOLINO, concerning communications he had with Brian Laundrie regarding the murder of Gabrielle Petito.

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CERTIFICATE OF SERVICE

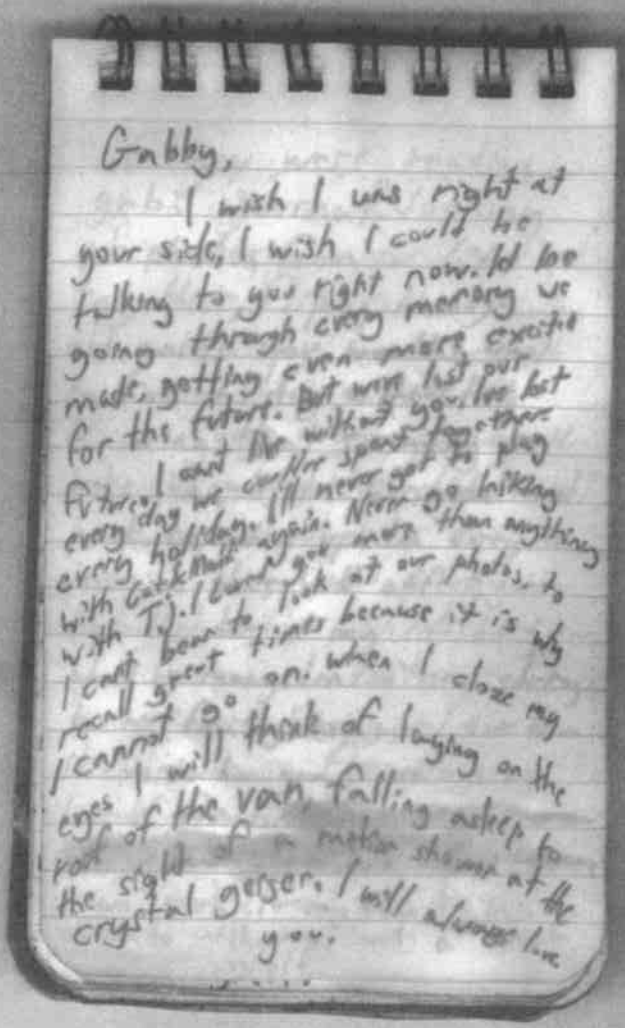
I HEREBY CERTIFY that a true copy of the foregoing has been electronically filed on this 26th day of October, 2023, with the Clerk of Court via the E-Filing Portal System which will simultaneously email the same to:

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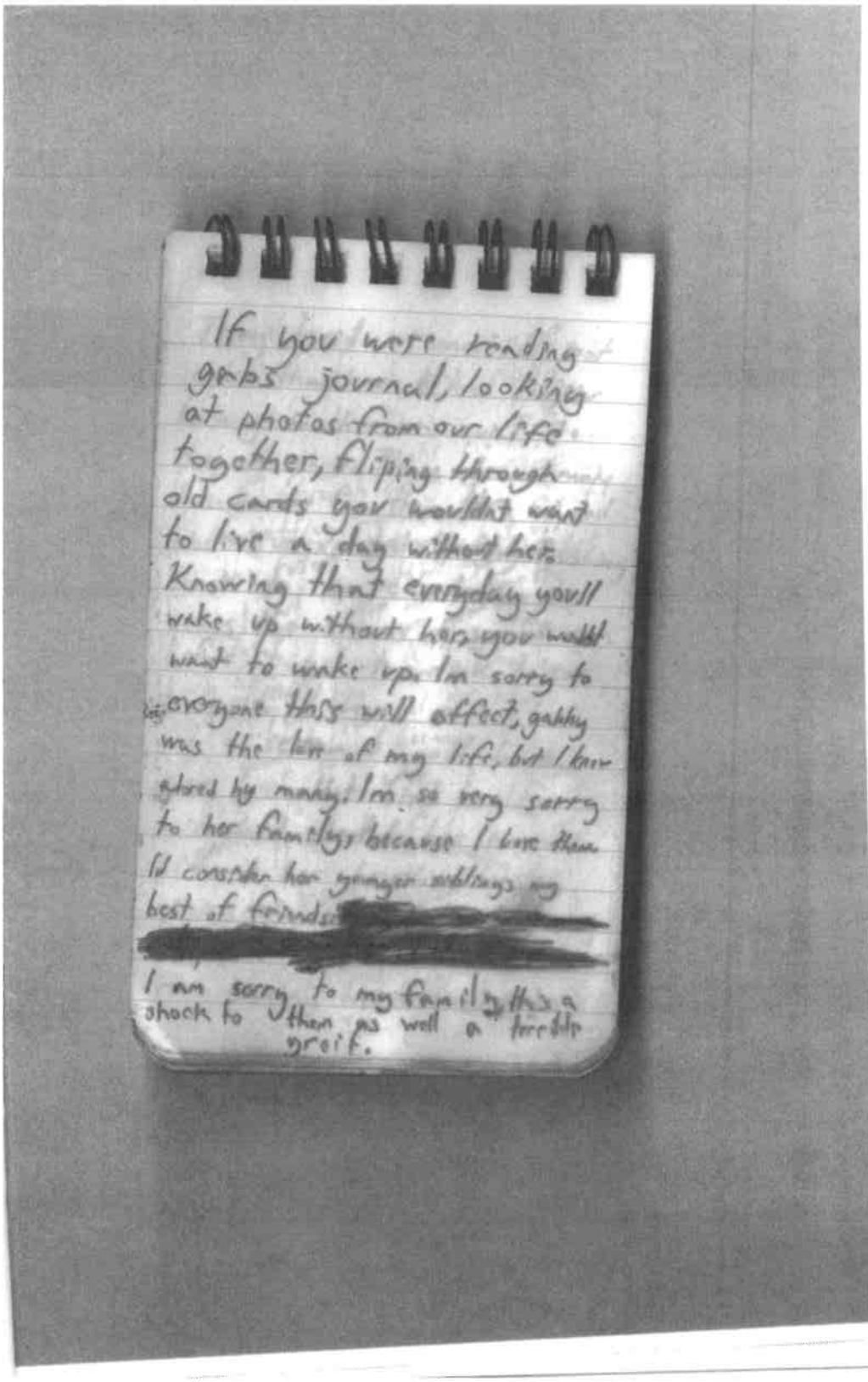
/s/ PATRICK J. REILLY, Esquire
PATRICK J. REILLY, ESQUIRE

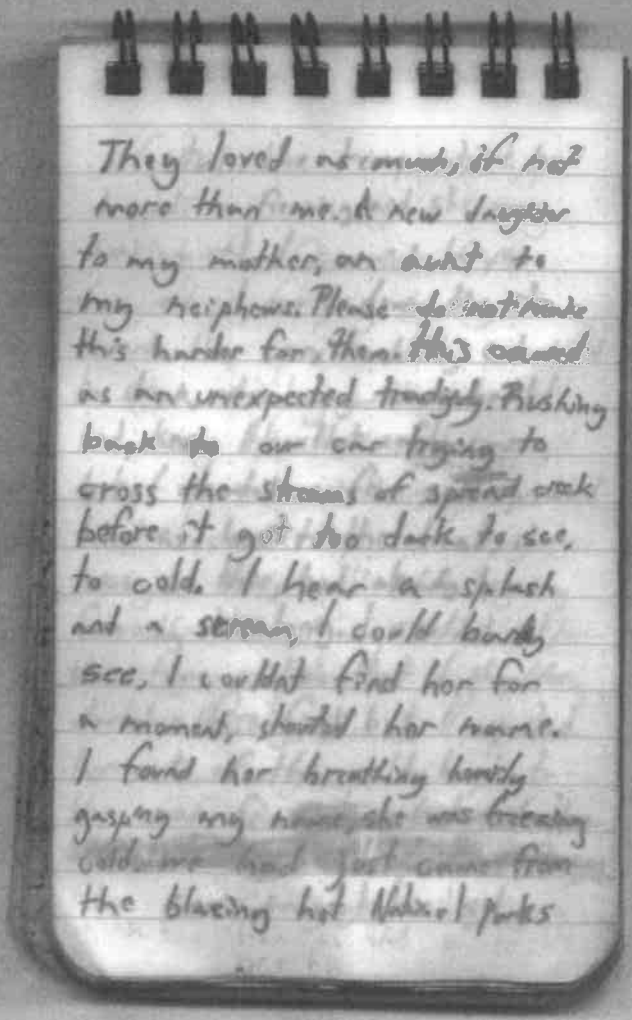


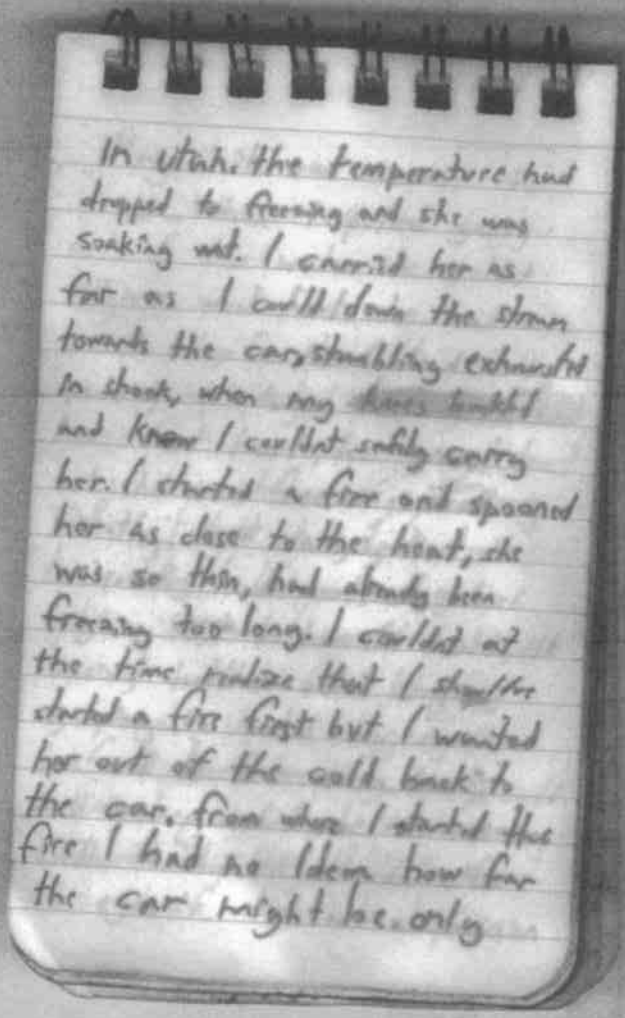
Gabby,

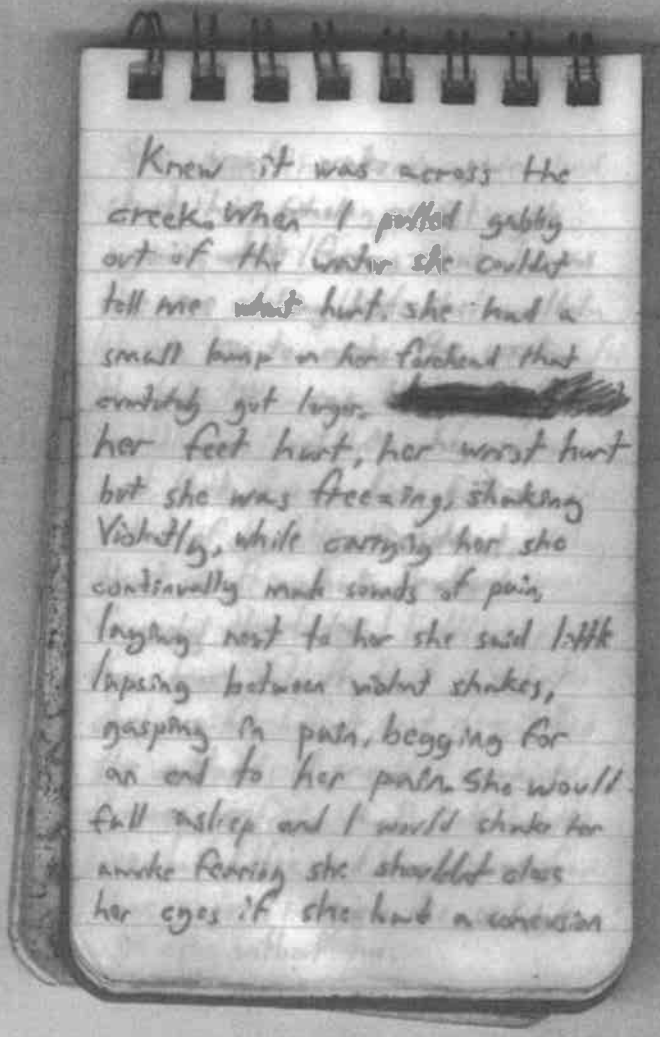
I wish I was right at your side, I wish I could be talking to you right now. I'd love going through every memory we made, getting even more excited for the future. But now I just put future. I want the with out you. We had every day we could spend together every holiday. I'll never get to play with Cat & Matt again. Never go hiking with Ty. I can't go more than anything I can't bear to look at our photos, to recall great times because it is why I cannot go on. When I close my eyes I will think of laughing on the roof of the van, falling asleep to the sight of a meteor shower at the crystal geyser. I will always love you.

EXHIBIT
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A

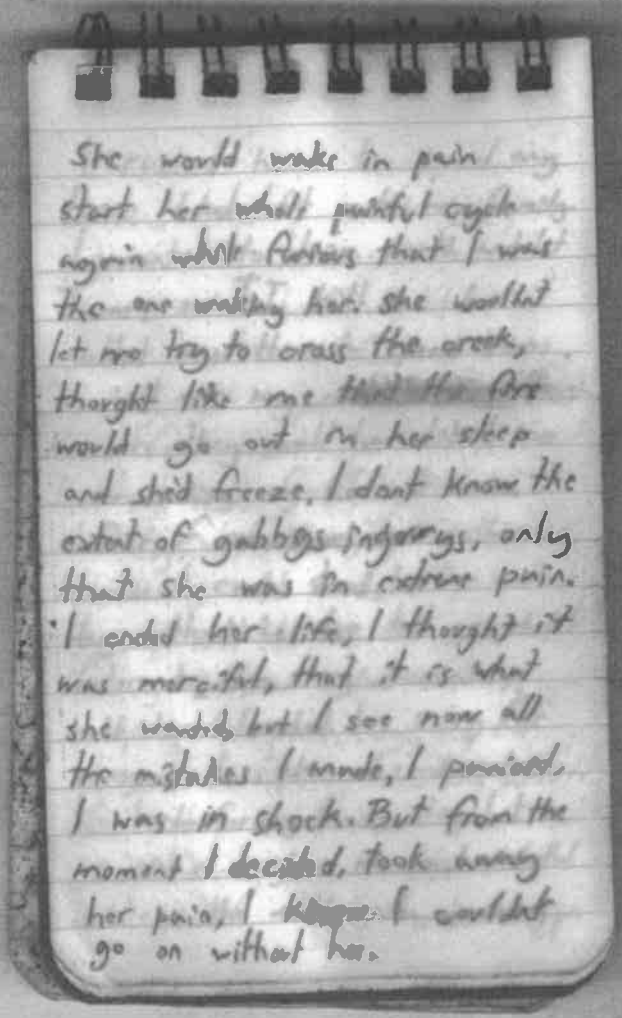

If you were reading
gabs journal, looking
at photos from our life
together, fliping through
old cards you wouldnt want
to live a day without her.
Knowing that everyday youll
wake up without her, you wouldn't
want to wake up. Im sorry to
everyone this will affect, gabby
was the love of my life, but I know
shared by many. Im so very sorry
to her family, because I love them
Id consider her younger siblings my
best of friends [redacted]
I am sorry to my family this a
shock to them as well a terrible
grief.

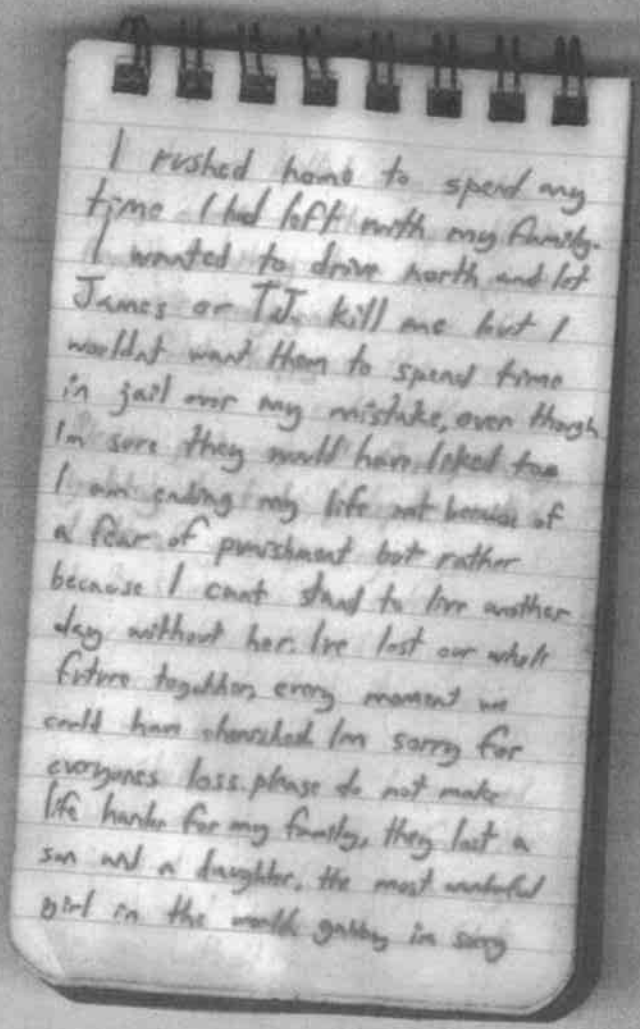

They loved me as much, if not more than me. A new daughter to my mother, an aunt to my neiphews. Please don't make this harder for them. This caused us an unexpected tradgedy. Rushing back to our car trying to cross the streams of spread creek before it got too dark to see, to cold. I hear a splash and a scream, I could barely see, I couldn't find her for a moment, shouted her name. I found her breathing heavily gasping my name, she was freezing cold, we had just come from the blazing hot Utah ski parks


In Utah, the temperature had dropped to freezing and she was soaking wet. I carried her as far as I could down the stream towards the car, stumbling exhausted in shock, when my knees buckled and knew I couldn't safely carry her. I started a fire and spooned her as close to the heat, she was so thin, had already been freezing too long. I couldn't at the time realize that I should've started a fire first but I wanted her out of the cold back to the car. From when I started the fire I had no idea how far the car might be. only

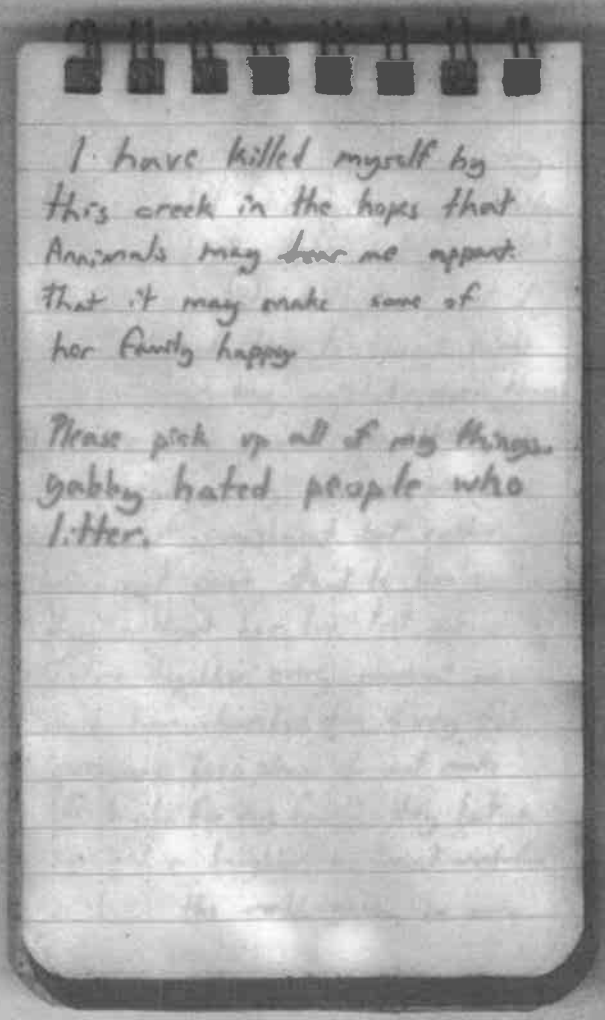


Knew it was across the creek. When I pulled gabby out of the water she couldn't tell me what hurt. she had a small bump on her forehead that evidently got larger. [redacted] her feet hurt, her wrist hurt but she was freezing, shaking violently, while carrying her she continually made sounds of pain, laying next to her she said little lapsing between violent shakes, gasping in pain, begging for an end to her pain. She would fall asleep and I would shake her awake fearing she shouldn't close her eyes if she had a concussion


She would wake in pain
start her whole painful cycle
again while Aeriana that I was
the one making her. she wouldn't
let me try to cross the creek,
thought like me that the fire
would go out in her sleep
and she'd freeze. I don't know the
extent of gabbys injuries, only
that she was in extreme pain.
I ended her life, I thought it
was merciful, that it is what
she wanted but I see now all
the mistakes I made, I panicked.
I was in shock. But from the
moment I decided, took away
her pain, I knew I couldn't
go on without her.



I rushed home to spend my time I had left with my family. I wanted to drive north and let James or TJ kill me but I wouldn't want them to spend time in jail over my mistake, even though I'm sure they would have liked that. I am ending my life not because of a fear of punishment but rather because I can't stand to live another day without her. We lost our whole future together, every moment we could have cherished. I'm sorry for everyones loss. please do not make life harder for my family, they lost a son and a daughter. the most wonderful girl in the world getting in every


I have killed myself by this creek in the hopes that Animals may ~~tear~~ me apart that it may make some of her family happy

Please pick up all of my things. gabby hated people who litter.