

California Supreme Court

BENJAMIN LEE BATHEN,
Petitioner on Habeas Corpus

Case No. SCS 294342
Related Court of Appeal No. D074538

Declaration of Jacob Marsh

1. My name is Jacob Marsh. I served as Benjamin Bathen's direct supervisor during his time at work at Ark Network Security Solutions (Ark NSS). During the weeks of January and February of 2017, I observed abnormal and erratic behavior exhibited by Benjamin Bathen while at work. His desk and the other members of his team were arranged in a square formation directly outside of my office. Additionally, my office had glass front walls so I was able to observe the presence and behavior of Benjamin and the rest of the team on a daily basis.
2. During this particular period (weeks of January and February 2017), I witnessed Benjamin get up several times from his desk, nearly every five minutes at times, over the course of a number of days. This was completely abnormal behavior for Benjamin as he usually would sit at his desk for long periods of time (i.e., hours) while coding with the rest of the team.
3. I also noticed when interacting with him, that his face would often tense up and become almost a grimace or a frown for a few seconds. I thought it was some kind of nervous reaction but I had never observed it before in my interactions with Benjamin in the past.
4. In addition, my colleagues at work reported that they had pulled the electronic badging logs for a week during that period showing Benjamin's abnormal amount of "badge-ins" and "badge-outs". Consequently, I was responsible for counseling Ben about the frequent brakes and lack of work progress and recall Benjamin disclosing to me that his doctor had just had stopped prescribing Wellbutrin and that stopping the medication may be causing some of the abnormal behavior. He stated "I don't think going off of Wellbutrin is good for me or anybody."

I declare under penalty of perjury that the forgoing is true and correct. Executed on 8/18, 2020



Jacob Marsh