

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL DISTRICT  
IN AND FOR DUVAL COUNTY, FLORIDA

STATE OF FLORIDA

CASE NUMBER: 2006-CF-008965-AXXXMA

vs.

RYAN DANIEL MASTERS

\_\_\_\_\_ /

**MOTION TO SET ASIDE OR VACATE SENTENCE AND CONVICTION**

COMES NOW, the Defendant, PRO SE, and moves this Honorable Court to Set aside, or vacate the defendant's sentence, and to terminate any probationary sanctions.

The Defendant files this motion so that its' contents be made available to public or media inquiry, and to become a permanent document in the case file held by the Clerk of the Court, Duval County, Florida.

**SUMMARY DOCUMENT**

The Florida Department of Law Enforcement and the Office of Statewide prosecution practiced dishonest and unethical methods of investigation and prosecution. The strategy used by these agencies were used to coerce a conviction, deprive the defendant's constitutional right to reasonable bail, and subdue the defendant's ability to prepare a proper defense in this case.

**PRE-TRIAL/ARREST**

The capiases issued in this case against all 4 defendants in this case held a bond amount of \$250,000 each. The bond amount is clearly trumped up to prevent any defendant from posting bond. This bond amount was requested by Law Enforcement, without a statement to merit such an aggravated bond amount. Once the warrants were obtained, the case was then transferred to Division C, again without a document supporting reasons to do so.

The defendant was first represented by Hugh Cotney, Esq. during pre-trial litigations; the defendant filed a motion to reduce the bail amount. The defendant was advised, by legal counsel, that if the motion went to a hearing, that either the prosecutor, or the lead investigator, Mark Warren, would testify that the defendant was under investigation of "Using proceeds from stolen credit card transactions to purchase firearms". This statement would be used to deter the Court from honoring a bail reduction, and furtherance as a deterrent to accept any plea agreement that may be presented by the State.

The prosecution's star witness, Brandon Landis, who was afforded bail at a reasonable amount for "Continuing to co-operate with Law Enforcement", actually was the primary benefactor in the crime, by means of obtaining the most value of merchandise in question. Mr. Landis falsified statements that this merchandise was obtained by other defendants. The merchandise obtained by Mr. Landis, in the amount of nearly \$1,000 of the \$1390.40 in losses, was ordered by, delivered to, and signed for by Mr. Landis or by a representative at Mr. Landis's family's residence of 11749 Mina Rd, Jacksonville FL.

Mr. Landis successfully manipulated the situation by claiming innocence and by creating a false illusion that he was a victim himself. Mr. Landis's bond reduction motion was actually filed by the Assistant Statewide Prosecutor, and not by his defense counsel.

The defendant, Mr. Masters, has never resided in Jacksonville or Duval County, Florida. Mr. Landis was merely an acquaintance of Mr. Masters. There is no evidence to support that Mr. Masters has ever resided at any of the residences that the merchandise in question was delivered to.

At the advice of defense counsel, the defendant waived right to a speedy trial, citing reasons that his attorney was not prepared to go to trial, and that the time allotted for speedy trial was coming to an end.

#### **PLEA AGREEMENT NEGOTIATIONS**

The plea agreement that was ultimately accepted by the Defendant was coerced and not a legitimate plea agreement. The state claims that the Plea Agreement offered was in the defendant's best interest, however still allocated maximum term of invasive sentencing, albeit only 1 year of the sentence was in the form of incarceration. The remainder of the 4 years probation was used as a form of financial collection enforcement, with special provisions that the defendant pays full responsibility of ordered restitution (or more specifically, cost of investigation) or face violation. Not being a Florida resident, and not understanding full collateral consequences of accepting probation, the defendant was unaware that by accepting this plea agreement, he would be denied the right to return back to his residence in Nevada, and the internet publication of personal information, such as residence address, demographic information, and other information used to personally identify the defendant. The defendant only accepted this plea agreement so that the outcome of the agreement would set a known date for release. The defendant was advised by legal counsel that if the agreement was not accepted, that the defendant could remain in jail indefinitely until bail was posted or until the Court was ready to hear the case in trial, but having previously waived speedy trial rights, that this trial could outstand the release date suggested by the plea agreement.

**THE \$57,000 QUESTION**

The defendant believes that both the Florida Department of Law Enforcement, and the Court, acted irresponsibly in regards to the "Cost of Investigation" ordered "joint-and-several with all co-defendants"\*. If, in fact, the Florida Department of Law Enforcement did expend \$57,000 in costs of investigation in this case, I recommend to the Court and the State inquire as to why such an expenditure was extended to a crime of such mitigated monetary value, and did not cause any substantial impact to the economics or well-being of any Florida resident or Business. Secondly, if such expenditure did not occur, then the Florida Department of Law Enforcement merely suggested this amount for restitution to personally benefit the department's revenue or budget, and fraudulently demanded such restitution against co-defendants in fear of increased incarceration terms.

No hearing was ever allotted to determine the validity of such a claim, the cost of investigation in connection with the severity of the offence does not credit the Florida Department of Law Enforcement's reasoning for allowing such expenditure to occur.

**\*JOINT AND SEVERAL WITH.... WHO?**

**The defendant alleges that the State fraudulently presented its plea agreements in the understanding that ALL costs of investigation and would be joint and several with ALL co-defendants.** The defendant challenges the Court's ruling that the restitution/cost of investigation was really joint-and-several with ALL co-defendants. The defendant emphasizes that the restitution was not equally or fairly divided among defendants, and that the Court showed favoritism with certain co-defendants under circumstances that are not clearly shown in the case file. Below is a summary of the ACTUAL payment and ENFORCEMENT of payment for each co-defendant.

BRANDON LANDIS: 3 Years Probation: \$1,000 Cost of Prosecution, VICTIM Restitution \$1324.90 joint-and-several, and only \$1,000 cost of investigation to Florida Department of Law Enforcement

CHRISTOPHER MCCLELLAN: 21 Months FL DOC, No Probation, Any/All Costs converted to Civil Judgment/Lien, No Enforcement of payments. Defendant has no legal motivation to pay any form of costs or restitution.

RICHARD WARD: Probation, \$52,000 FDLE Restitution, \$1,000 cost of restitution, restitution payment limited to \$150.00/month with remainder being afforded civil judgment

RYAN MASTERS: Most Invasive Sentence of 1 year county jail, 4 years probation (total invasive sentence of 5 years as permitted by Statute, full \$57,000 "joint and several" liability.

### **SELECTIVE SENTENCING**

Mr. Landis, who was not obligated to "Testify Truthfully" as part of a plea agreement, was sentenced long after the other defendant in this case. The defendant challenges this delayed sentencing was used as a tactic to make sure that all the other defendants passed their 30 day appeal period, and to ensure that all other co-defendant's judgment and sentences were final. Mr. Landis, being a substantial participant did not have sufficient credibility to be an actual witness in the event of trial, but regardless was still used as a keystone to uphold the State's case. The defendant believes that Mr. Landis was not obligated to testify truthfully only because all other co-defendants have already pled and have been sentenced.

### **ABILITY TO PAY**

The defendant challenges the Court's discretion in determining a defendant's ability to pay in respect to re-payment of restitution. The defendant alleges the Court failed to take into account the fact that any form of incarceration, without being afforded the opportunity for work-release or other self sustaining and that by default, any incarcerated inmate has a zero income and in most cases loses all assets and financial resources to be self sufficient and/or make restitution payments. The Court did not consider the defendant's personal financial status when granting an order for restitution or re-payment of costs of investigation.

### **THE SCALES OF JUSTICE**

The defendant also challenges the Court, and all Courts of Duval county, and alleges that the State Attorney's, and/or Judges engage in acts of favoritism with certain defendants, crimes, or situations. There are many offenders who have committed similar crimes, or more heinous crimes, against the State of Florida who have been afforded a bond or sentence amount that was more appropriate to the crime in question. Below is some case examples of individuals charged with crimes of greater seriousness than the charge in this case, who received better consideration or compensation by the Court in respect to their bond amount or sentence.

Related Value Bonds: The chart below outlines offenders that are currently incarcerated with a **bond amount that was equal to the defendants bond in this case.** (Source: Jacksonville Sheriff's Office exported Inmate Data File)

Defendant Name:	Case Number:	Charge:	Bond Amount:
Nicholas Arthur	16-2007-CF-018244	S782.071(1) VEHICULAR HOMICIDE	\$250,000
Gregory Rosier	16-2007-CF-018285	ATTEMPTED S812.13(2)(B) ROBBERY ARMED (WEAPON)	\$250,000
James Gay	16-2008-CF-000264	S800.04(5)(B) LEWD OR LASCIVIOUS MOLESTATION - VICTIM LESS THAN 12, DEFENDANT 18 OR OLDER	\$250,000
Robert Davis	16-2008-CF-003310	S794.011(4)(E) SEXUAL BATTERY - VICTIM MENTALLY IMPAIRED	\$250,000
Elmario Clay	16-2008-CF-003947	S787.01(1)(A)3 KIDNAPPING - BODILY HARM OR TERRORIZE VICTIM	\$250,000
Tyrone Wells	16-2007-CF-002891	ATTEMPTED S782.04(1)(A) MURDER - FIRST DEGREE	\$250,000
Sherman Thomas	16-2007-CF-011229	S810.02(2)(B) BURGLARY - ARMED WITH EXPLOSIVES OR A DANGEROUS WEAPON	\$250,000

Information in this chart is only a sample of a larger population of inmates with a similar bond. Inmates with bond amounts of \$250,000 like the defendants in this case, have substantially more serious and/or violent offenses, that, if true\*, represent a greater harm to the victim and general society.

\*The defendant reminds all viewers of this document that any person charged with a crime is presumed INNOCENT until PROVEN GUILTY.

Low Bond for High Crimes: This next chart will illustrate how certain felonies or defendants are favored by prosecution, or the Courts, in respect to the bond amount. The bond amounts below are LOWER than \$250,000 for a crime that is considered to be far more serious and detrimental than the charges filed in this case, yet are afforded the opportunity to post bond at more reasonable level.

Defendant Name:	Case Number:	Charge (Most Serious):	Bond Amount:
Justin Lewis	16-2008-CF-002041	S800.04(5)(C)2 LEWD OR LASCIVIOUS MOLESTATION - VICTIM 12 YEARS BUT LESS THAN 16; DEFENDANT 18 OR OLDER	\$25,000
J Hill	16-2008-CF-003965	S784.045(1)(A)1 BATTERY / AGG; "KNOWINGLY" CAUSE GRT BODILY HARM / PERM. DISABILITY / DISFIGUREMENT	\$30,000
Javier Serrano	16-2006-CF-015969	S827.03(2) AGGRAVATED CHILD ABUSE	\$15,000
Byron Spencer	16-2007-CF-013832	S810.02(2)(B) BURGLARY - ARMED WITH EXPLOSIVES OR A DANGEROUS WEAPON	\$100,000
Elmario Clay	16-2008-CF-003947	S787.01(1)(A)3 KIDNAPPING - BODILY HARM OR TERRORIZE VICTIM	\$250,000
Shawn Marrow	16-2007-CF-018270	S784.08(2)(C) BATTERY ON PERSON 65 YEARS OF AGE OR OLDER	\$50,000
Rickie Barfield	16-2008-CF-002932	S812.014(2)(C)3 GRAND THEFT - UNSPECIFIED -\$10,000 TO LESS THAN \$20,000	\$50,000

**FAVORED FRAUDS**

Not all fraud offenses were created equal. The chart below shows similar crimes related to ORGANIZED FRAUD who received favorable bond amounts.

Defendant Name:	Case Number:	Charge (Most Serious):	Bond Amount:
Irving Escobar	16-2007-CF-003203	S817.034(4)(A)1 SCHEMES TO DEFRAUD > \$50,000	\$50,000
Cheryl Chesser	16-2008-CF-003965	S812.014(2)(A) GRAND THEFT (PROPERTY VALUED AT MORE THAN \$100,000)	\$5,000
Cynthia Baro	16-2006-CF-015969	S817.034(4)(A)2 SCHEMES TO DEFRAUD > \$20,000 < \$50,000	\$10,000
Shedrick Thomas	16-2008-CF-000865	S817.034(4)(A)1 SCHEMES TO DEFRAUD > \$50,000	\$200,000

These defendants, who allegedly have committed crimes that are far more severe in nature, were afforded favorable bond amounts in relation to the severity of their offense.

The defendant affirms that he was subjected to the same bonding standards as other offenders who are violent in nature of offense, or otherwise pose a serious risk to public safety. Mr. Masters, prior to the offense in this case, **has had no prior criminal record** and the mitigating circumstances surrounding the offense, such as monetary value, and delayed time to file charges (Offense was in 2003, charges not filed until 2006) far outweigh any aggravated elements that would merit such invasive and unjust sentencing. All other co-defendants, with the exception of Christopher McClellan, who has several felony prior charges, were afforded **withheld adjudication** even with the majority of merchandise in question as their responsibility.

**CONCLUSION**

The defendant affirms that he is a victim of overzealous prosecution, and that the entire case, from the beginning, was trumped up and exaggerated to the extent to artificially inflate its severity and community impact. The strategic sentencing, court date setting, and many factors of this prosecution were manipulated in such a way to favor the State, and that all prior Motions and rulings in this case, the Court was never truly fully advised in the premises, now asks the Court for additional inquiry in respect to the legitimacy to the felony conviction obtained in this case.

Respectfully Submitted,

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Ryan Daniel Masters, Defendant

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY**, that a true and correct copy of the foregoing Motion to Vacate/Set aside sentence has been served by **U.S. Mail** to the Office of Statewide Prosecution, 1300 Riverplace Blvd, Suite 405, Jacksonville FL 32207, on this \_\_\_\_\_ day of March, 2008.

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Ryan Daniel Masters, Defendant