

**IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT IN
AND FOR BROWARD COUNTY, FLORIDA**

STATE OF FLORIDA,

CASE NO.: 16-008459CF10A v.

JUDGE: BAILEY

JERROD WATSON
Defendant.

_____ /.

MOTION TO PLEA AND JUDGMENT

COMES NOW, the Defendant, JERROD WATSON, by and through the undersigned counsel pursuant to Florida Rules of Criminal Procedure 3.170(k), 3.172, and 3.850, and hereby respectfully requests this Court permit him to withdraw or otherwise set aside and vacate the plea and judgment entered in this case on May 17, 2018 And in support thereof states the following:

1. The Defendant was charged with Attempted Murder in the First Degree and Attempt Murder in the First Degree in the above styled case.
2. At the time of the filing of the charges the Defendant was a minor but the case was direct filed.
3. The ASA at the time sent what they represented was all the discovery. As time went on there was supplemental discovery provided.
4. The defense conducted discovery throughout the case and continued trying to negotiate a better non-prison deal.
5. Eventually ASA Amy Bloom replace the prior ASA on this case and the defense started working with her.
6. Counsel for the defendant was in plea negotiations with ASA Amy Bloom for a while.
7. The pleas offered by ASA Bloom were all prison time so the defendant rejected them.
8. Undersigned continued to work on the case and eventually met with the Defendant and also met with his family in order to go over the evidenced against him and his chances at trial and any possible offers.

9. Undersigned counsel first went over the main evidence against defendant which was testimony of victim. The defense received supplemental discovery in which one of the officers stated that victim was hesitant as to the ID. Even with this it was only hesitation and there was just as much chance that victim would go forward and testify.
10. Based on the information we had about this victim the defendant decided to take a plea and file for motion for downward departure.
11. The defendant plead no contest and the motion for downward departure was heard.
12. During the taking of the plea the court asked ASA Amy Bloom if the state had any evidence that had not been provided to defense as part of the colloquy that is gone through when a plea is taken. ASA Amy Bloom stated no there wasn't. She did this knowing that she did not turn over the waiver of prosecution. She knowingly lied to the court as well knowingly committing a brady violation which compromised the defendants constitutional rights.
13. The day the motion for downward was heard undersigned counsel spoke to ASA Bloom and no mention was made of any brady material that she may have been obligated to turn over to the defense.
14. What the defense did not know was that ASA Amy Bloom was intentionally withholding discovery that would qualify as "Brady" material.
15. ASA Bloom had in her possession a waiver of prosecution that was signed and notarized by the victim in which the victim stated that they could not identify the Defendant and was not going to go forward with case. ASA Bloom never provided this evidence to the defense and did so knowingly.
16. Prior to day the motion for downward departure was heard ASA Bloom met with her supervisor ASA Maria Schneider to discuss this case. ASA Maria Schneider signed of on the possible plea. The state attorneys office makes a claim that this evidence was turned over to the defense and that the defense missed it. but that is absolutely not true.
17. Prior to filing this motion I gave the Broward State Attorney Office an opportunity to provide me with proof that this discovery was turned over to me. That proof was never provided. I did this by calling ASA Maria Schneider. She told me that it had been sent to me. I called her back and gave her the opportunity to provide to me with proof that this waiver of prosecution was provided to me but no proof was ever provided.

18. It was after ASA Amy Bloom was fired for making comments on Facebook that this information came to light.
19. After ASA Amy Bloom was fired Broward State Attorney Mike Satz ordered an investigation into the files ASA Amy Bloom had worked on to see if there were any improprieties in those cases. ASA Neva Smith was assigned to look through the files that ASA Amy Bloom had worked on.
20. It was during this time that it was found that the waiver of prosecution was never turned over to the defense and that a plea was taken without the defense knowing this information. The waiver of prosecution is attached hereto as exhibit "1".
21. It is important to note that the reason that the defendant took the plea was because of the possible testimony of the victim. If the defendant would have known of the waiver of prosecution document where victim said that they couldn't identify him and that they were not going forward, the defendant would have never plead to the attempted murder charges.
22. The plea was taken based on the limited discovery that the state turned over. It was not based on all the discovery because the prosecution intentionally withheld the entire discovery.
23. As a result the plea taken was not taken freely and voluntarily because the defense was lead to believe a narrative that wasn't true and it was done by ASA Amy Bloom.
24. The failure of ASA Amy Bloom to not turn over the notarized waiver of prosecution is a brady violation that resulted in my clients constitutional rights being violated and the plea being taken as a result of the ASA Amy Bloom intentionally withholding evidence and misleading defense counsel and defendant as to the state of the defense case..
25. Defendant through undersigned requests this court enter an order setting aside the plea and sentence as a result of the ASA's knowingly withholding evidence that falls under Brady and which the defense is entitle to. The fact that the ASA knowingly withheld this information made the plea one that was not taken freely and voluntarily.

LAW AND AUTHORITY

26. Section 3.170 (f) of the Florida Rules of Criminal Procedure (1998) provides that the

court in it's discretion, shall on good cause, at any time before a sentence, permit a plea of guilty to be withdrawn. If there is a showing of good cause, the defendant shall be allowed to withdraw his plea as a matter of right: upon a showing of less than good cause, withdrawal of the plea is within the court's discretion. Yesnes v. State, 440 So.2d 628, 634 (Fla. 1st DCA 1983). The rule should be liberally construed in favor of the defendant. *Id.* The law favors a trial on its merits; therefore, where the interest of justice would be served, the defendant should be permitted to withdraw his plea. *Id.*, Catinella v. State, 732 So. 2d 444 (Fla App. 4th Dist, 1999).

27. A plea of guilty should be entirely voluntary by one competent to know the consequence and should not be induced by fear, misapprehension, persuasion, promises, inadvertence or ignorance: a defendant should be allowed to withdraw a plea of guilty, given unadvisedly... (the law favors trials on its merits; the withdrawal of a plea of guilty should not be denied in any case where it is in the least evident that the ends of justice will be subverted by permitting not guilty to be pleaded in its place. Lopez v. State 227 So2d 694 at 696-697 (Fla. App 3 Dist. 1969 at 696-697).
28. The burden is upon the defendant to establish good cause under the rule, and use of word "shall" indicates that such a showing entitles the defendant to withdraw a plea as a matter of right. Use of the word "may" however suggests that the rule also allows, in the discretion of the court, withdrawal of the plea in the interest of justice, upon a lesser showing than good cause. In any event, this rule should be liberally construed in favor of the defendant....The law inclines toward a trial on its merits; and where it appears that the interest of justice would be served. The defendant should be permitted to withdraw his plea. Robert v. State 670 So.2d 1042 (Fla. App. 4 Dist., 1996).
29. Good cause exist in situations where the defendant demonstrates that his guilty plea was infected by misapprehension, undue persuasion, ignorance, was entered by one not competent to know its consequences, the ends of justice would be served by withdrawal of such a plea or that it was otherwise involuntary. Onnestad v. State 404 So.2d 403

(Fla. 5th DCA 1981). A defendant's entry of a plea based upon his attorney's mistaken advice can be a valid basis for finding good cause. See Graham v. State, 779 So2d. 604 (Fla.2d DCA 2001) (holding that counsel's mistaken advice that defendant's photo would

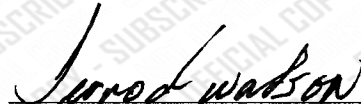
not be placed on the internet established good cause for permitting defendant to withdraw his guilty plea Nicol v. State. 892 So.2d 1169 at 1171 (Fla app. 5 Dist, 2005).

30. Based on the foregoing defendant has good cause to set aside the plea as a matter of law. At a minimum, even if the above does not constitute good cause under the circumstances, liberally construing 3.170(f) in favor defendant the interests of justice will only be served by setting aside the plea and granting defendant the right to test the merits of his case.

WHEREFORE, the Defendant, JERROD WATSON, respectfully asks that this court grant this Motion to set aside plea and permitting the matter to proceed.

VERIFICATION

I the undersigned do hereby swear that I am Jerrod Watson that the statement of fact above in paragraph 1-25 are true and correct and are based on my direct knowledge thereof, and that I am a competent adult.


JERROD WATSON

NOTORIZATION

The foregoing was sworn to and subscribed before me, an officer dult authorized in the state of Florida to take oaths and acknowledgements this 21st day of _____ July , 2020 by JERROD WATSON who is personally known to me and who did take an oath and eho executed the foregoing and who acknowledge the foregoing to be freely and voluntarily executed.



Notary Public
Print Name: Carolina Brand-Garcia
My Commission Expires

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion furnished via eservice through the efilng portal to: OFFICE OF THE STATE ATTORNEY, 201 SE 6th Street, Fort Lauderdale, FL 33301 on this 21st day of July, 2020.

Respectfully Submitted,

/s/. Alex Arreaza

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Exhibit "1"

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

vs.

JERROD WATSON,

Defendant.

CASE NO.: 16-8459CF10A

JUDGE: T. BAILEY

AFFIDAVIT FOR WAIVER OF PROSECUTION

1. On June 18, 2016, I, **TRAYVON NEWSOME**, was the victim of a shooting.
2. I met with police officers and gave a statement regarding the circumstances of the incident.
3. During the statement, I told the police the following:
 - JERROD WATSON, who was seated in the front passenger seat with a shirt concealing his face, was the shooter.
 - I knew JERROD WATSON was the shooter because prior to the incident, he had driven by in the same car without concealing his identity and I recognized him.
 - JERROD WATSON is known to me as Jerome Watson's brother, who was also in the car seated in the backseat.
 - I do not know where JERROD WATSON lives but I was able to provide his Facebook account and photograph to identify him.
 - I selected JERROD WATSON out of a photo lineup array as the person who shot me.
4. During the pendency of this case, I was contacted by ASA Amy Bloom to discuss proceeding to trial.
5. I indicated to Ms. Bloom that I did not want to pursue charges because I was not sure of who the shooter actually was despite what I told police officers on the day of the incident.
6. I stated to Ms. Bloom that I do not know JERROD WATSON personally and I only mentioned his name because I thought that he could have been the shooter since other people on scene said it was him.
7. If this case proceeds to trial or a hearing of any sort, I will testify that I do not know who shot me.
8. I do not want to proceed as a victim in this case and I do not want to be involved in prosecuting JERROD WATSON.
9. I would like for the State of Florida to drop the charges against JERROD WATSON.
10. I understand that once the charges are dropped, there is no remedy and can be no justice for me as the victim of a shooting.

11. I understand that upon execution of this affidavit, the State may or may not drop the charges against JERROD WATSON.
12. I understand that if charges are dropped, JERROD WATSON, will likely be released from incarceration.
13. I am not in fear of JERROD WATSON.

Trayvon Newsome

TRAYVON NEWSOME, VICTIM
Affiant

This affidavit was subscribed and sworn before me on this 9 day of May, 2018. The affiant is personally known or showed a driver's license with # N 250 80498 1650



[Signature]

Notary Public