

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

LAWRENCE E. BROVIAK,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

Case No. 2D14-2998

CLERK OF COUNTY COURT
HILLSBOROUGH COUNTY, FL
COUNTY CIVIL

FILED 12/6/15

Opinion filed November 4, 2015.

Appeal from the Circuit Court for
Hillsborough County; Chet A. Tharpe,
Judge.

Howard L. Dimmig, II, Public Defender, and
Timothy J. Ferreri, Assistant Public
Defender, Bartow, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Kiersten E. Jensen,
Assistant Attorney General, Tampa, for
Appellees.

CASANUEVA, Judge.

Lawrence E. Broviak appeals an order revoking his community control and the sentence imposed upon the revocation. We affirm but remand with instructions to strike the reference to the violation of condition number sixteen from the order revoking community control so that the order conforms to the trial court's oral pronouncement.

~~EXHIBIT~~ ONE APPENDIXA

M A N D A T E

from

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA

SECOND DISTRICT

THIS CAUSE HAVING BEEN BROUGHT TO THIS COURT BY APPEAL, AND
AFTER DUE CONSIDERATION THE COURT HAVING ISSUED ITS OPINION;

YOU ARE HEREBY COMMANDED THAT SUCH FURTHER PROCEEDINGS
BE HAD IN SAID CAUSE, IF REQUIRED, IN ACCORDANCE WITH THE OPINION OF
THIS COURT ATTACHED HERETO AND INCORPORATED AS PART OF THIS ORDER,
AND WITH THE RULES OF PROCEDURE AND LAWS OF THE STATE OF FLORIDA.

WITNESS THE HONORABLE CRAIG C. VILLANTI CHIEF JUDGE OF THE
DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, SECOND DISTRICT, AND
THE SEAL OF THE SAID COURT AT LAKELAND, FLORIDA ON THIS DAY.

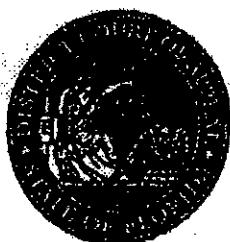
DATE: December 4, 2015

SECOND DCA CASE NO. 2D14-2998

COUNTY OF ORIGIN: Hillsborough

LOWER TRIBUNAL CASE NO. 12-CF-1632

CASE STYLE: LAWRENCE BROVIAK v. STATE OF FLORIDA



Mary Elizabeth Kuenzel
Mary Elizabeth Kuenzel
Clerk

cc: (Without Attached Opinion)

Kiersten E. Jensen, A.A.G. Timothy J. Ferreri, A. P. D. Lawrence Broviak

mep

APPENDIX B

OFFICE OF THE PUBLIC DEFENDER
POLK COUNTY COURTHOUSE
255 N. BROADWAY - 3RD FLOOR
POST OFFICE BOX 9000-PD
BARTOW, FLORIDA 33831
PHONE: 863-534-4200
EMAIL: PD10EMAIL@PD10.STATE.FL.US



REX DIMMIG
PUBLIC DEFENDER
TENTH JUDICIAL CIRCUIT

November 12, 2015

Mr. Lawrence Broviak
Inmate No. 501873
Hamilton Correctional Annex
10650 S.W. 46th St.
Jasper, FL 32052

RE: Lawrence Broviak vs. State of Florida
Appeal No. 2D14-2998

Dear Mr. Broviak:

The Second District Court of Appeal has decided your appeal. Unfortunately, we lost. The court has reversed a minor sentencing error involving the order of revocation of probation, but affirmed the remainder of your case. I have enclosed a copy of the court's decision and of the 3-volume "Record on Appeal" (which includes transcripts). You now have our only copy of the record, so please store it carefully.

As you can see, the court did not explain its reasons for affirming your case. We cannot be certain which legal theories the court used to reach its conclusions. Because we do not know the court's reasoning, we have no basis for seeking further appellate review in the Florida courts. Your direct appeal in the state court system is over, and I have concluded my efforts on your behalf.

I regret that I could not do more for you. If you have questions about your appeal or this letter, do not hesitate to write me. You should contact your trial attorney if you need help correcting the sentencing error that the court discussed in its opinion.

Sincerely,

TIMOTHY J. FERRERI
Assistant Public Defender

tjf

Supreme Court of Florida

WEDNESDAY, MARCH 22, 2023

Lawrence Broviak,
Petitioner(s)
v.

SC2023-0111
Lower Tribunal No(s).:
292012CF001632000AHC

State of Florida,
Respondent(s)

The petition for writ of mandamus is hereby denied as procedurally barred. A petition for extraordinary relief is not a second appeal and cannot be used to litigate or relitigate issues that were or could have been raised on direct appeal or in prior postconviction proceedings. See *Denson v. State*, 775 So. 2d 288, 290 (Fla. 2000); *Breedlove v. Singletary*, 595 So. 2d 8, 10 (Fla. 1992). No rehearing will be entertained by this Court.

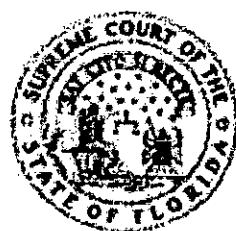
CANADY, POLSTON, LABARGA, COURIEL, and FRANCIS, JJ., concur.

A True Copy

Test:

SC2028-0111 3/22/2023

John A. Tomasino
Clerk, Supreme Court
SC2023-0111 3/22/2023



JG

Served:

LAWRENCE BROVIAK
C. SUZANNE BECHARD
HON. CINDY STUART

copy.

SUPREME COURT OF FLORIDA

LAWRENCE BROVIAK

Petitioner

PROVIDED TO FRANKLIN CI.
FORM 100-100 ON copy

N.

1-19-23

Case No: 12-CF-00163

INN:

LB.

STATE OF FLORIDA

Respondent

PETITION FOR WRIT OF MANDAMUS

COMES NOW, Petitioner, Lawrence Broviak, respectfully moves This Honorable Court (i.e. in pro se, and a layman at law) with his Petition for Writ of Mandamus; and in support of this cause of action; Petitioner hereby asserts and injects the following facts.

JURISDICTION

Petitioner invokes the jurisdiction of This Honorable Court to hear and decide his claims in his Petition for Writ of Mandamus, and to issue and grant him with Mandamus Relief.

STATEMENT OF FACTS

1. Petitioner was convicted and sentenced on May 31, 2012 to eight years probation. (i.e. as Petitioner agreed to probation, a 5 year sentence over 5 year prison sentence)
2. Petitioner was alleged of willfully, intentionally, and knowingly violating his probation by the trial court which was being conducted by The Honorable Judge Chat A. Thomas.

3. But the trial court failed to prove and show that Petitioner knowingly, wilfully, and intentionally violated his probation.
4. The trial court used convictions dating back beyond ten years to convict and sentence Petitioner regarding case number *supra*.
5. Petitioner was sentenced to 14 years in The Florida Department of Corrections c.i.e. hereinafter f. D.O.C.) after allegedly violating eight years of probation with an alleged *Officer violation*.
6. Petitioner did not receive any convictions by the trial court between the period of 1989 to 2003.
7. Trial Court allowed falsities to be committed by officers of the court including vindictiveness and extreme prejudice by the jurist due to Petitioner having certain offenses.
8. Petitioner's appointed Public Defender at the time c.i.e. Robert Mc Tavish) failed to thoroughly investigate Petitioner's case.
9. Due to Petitioner not being satisfied with said Public Defender's performance; Petitioner retained the legal services of Private Criminal Defense Attorney Nick Ficarotta; of which Nick Ficarotta also failed to investigate, thoroughly, matters involving his case,
10. After Nick Ficarotta failed to effectively represent Petitioner; Petitioner pursued post-conviction relief; through the filing of a 3.850 motion; and was denied.
11. Petitioner then filed his direct appeal through appellate counsel ^{assigned} Timothy Ferrari by way of Howard L. Dimmig II, supervising appellate attorney of the Second District Court of Appeal in Lakeland, Florida, Polk County, Florida.

12. After Petitioner's said appellate attorney informed Petitioner that he can inform his said appellate attorney about any issues that Petitioner believed denied him a fair trial, or fair disposition of his case, in a letter that said appellate counsel mailed to Petitioner, c.i.e. letter was dated on October 17, 2014; See Exhibit A)

13. On June 25, 2015, Petitioner filed/wrote and mailed out a letter to Appellate Counsel about the judicial bias and severe prejudice that Petitioner suffered at the hands of The Honorable Judge Chet A. Tharpe; due to his continued bias and prejudice towards cases/offenses that were identical to Petitioner's offenses/case; Public Defender Robert McTavish's heavy involvement w/ with Judge Chet A. Tharpe's when pertaining to cases such as Petitioner's as Robert McTavish was personally appointed/assigned by Judge Tharpe as defendants suffered judicial bias and prejudice from said jurist and said public defender as said counsel was only assigned to represent clients with said offenses/cases while judge Tharpe intentionally assigned himself to said cases pertaining to said offenses. c.i.e. See Exhibit C. (Tampa Bay Times)

14. Petitioner made efforts to pursue his case prose; due to Appellate Counsel's failure to be effective (i.e. thoroughly) regarding Petitioner's ~~injury~~ direct appeal; but was unable to further pursue his case through the appellate process; due to circumstances that were beyond his control; in addition to being a layman at law.

15. Petitioner has suffered flagrant injuries since his current unlawful incarceration within F.D.O.C.; in addition to having been diagnosed with a schizoid personality disorder, along with suicide attempts and being Baker Acted prior to current prison sentence. Medical release See Exhibit A

SUMMARY OF ARGUMENT

Petitioner suffered judicial bias, or prejudice invalid/wrongful conviction

illegal sentence, by Judge Chet A. Tharpe, resulting in Petitioners unlawful detention, ineffective trial counsel assistance, c.i.e. (Robert Mc Tavish, Nick Ficarotta) ineffective appellate counsel assistance (c.i.e. Timothy Ferrari, Howard L. Dimmig, II), and the suffering of flagrant injuries during his current unlawful incarceration, and prior to current unlawful detention.

GROUND ~~ONE~~ ONE

PETITIONER SUFFERED JUDICIAL BIAS AND SEVERE PREJUDICE FROM SAID JURIST

.... judicial bias can be discreet and subtle. It can affect the judge's demeanor, or the judge's temperament. It can appear in a judge's tone of ~~voice~~ voice. It can appear in a judge's glance, it can also be hidden in discretionary rulings. Indeed, judicial bias can work its evil even without the realization of the offending judge. Every defendant is entitled to the cold neutrality that is the guarantor of justice when the charges themselves are so offensive (i.e. ~~abuse of children in this case~~) that the mere allegations can overwhelm the evidence. - SEE RINALDI v. STATE, 718 So.2d. 242 (Fla. 5th DCA 1999)

Judge Chet A. Tharpe's judicial bias and severe prejudice towards Petitioner due to said offenses and case, motivated Judge Tharpe to give Petitioner an illegal sentence, which also amounted to a vindictive sentence, in which Judge Tharpe has had a historical pattern of committing judicial bias and having severe prejudice upon and towards similarly situated defendants by issuing invalid convictions and illegal sentences due to their said offenses and cases. SEE TAMPA BAY TIMES ARTICLE, EXHIBIT C, enclosed

Petitioner placed Judge Tharpe under investigation through

the Florida Judicial Qualifications Commission based on said jurist's judicial bias, judicial prejudice, and judicial vindictiveness towards Petitioner and other similarly situated persons, as Petitioner's allegations are supported by clear and convincing evidence. SEE *In re WOODARD*, 919 So.2d 389, 391 (Fla. 2006) ("This court upholds a JQC Hearing Panel's findings on alleged misconduct that are supported by clear and convincing evidence.") (See HERE.)

Petitioner chose an eight year probationary sentence over a five year prison sentence, and was sentenced to eight years probation, nullifying the five year sentence. After violating his probation, Judge Sharpe, being motivated by judicial bias and judicial vindictiveness, sentenced Petitioner to 14 years F.D.O.C. violating Petitioner's substantive due process rights under the Fourteenth Amendment of The United States Constitution. SEE U.S.C.A. CONST. AMEND 14 (FOURTEEN LAW DUE PROCESS/FUNDAMENTAL FAIRNESS AND EQUAL PROTECTION/TREATMENT PROVISIONS)

Based on information mentioned herein, This Honorable Court should exonerate Petitioner's conviction and sentence, (i.e. listed herein caption supra) and for This Honorable Court to issue an order directing F.D.O.C. to immediately discharge Petitioner from its unlawful custody.

GROUND TWO

STATE FAILED TO PROVE THAT PETITIONER WILLFULLY VIOLATED HIS PROBATION

In the violation of probation hearing colloquy, Petitioner's probation officer (i.e. Ingrid Gean Louis) claimed that Petitioner

called her as stated by said officer in the v.o.p. hearing colloquy on page #9 lines #17 and 18 under Direct Examination from Assistant State Attorney Ms. Derry.

A. "Correct. He called the office number. He explained to me that he missed ~~the~~^{his} bus.

Later during cross-examination by Mr. Ficarotta; Ms. Louis made this statement. (i.e. on page #19, lines 18 and 19)

Probation Officer: I was going to my office. The phone rang. I picked it up and he was on the other line.

This excerpt I clearly shows that said officer committed perjury by making contradictory statements. SEE FLORIDA STATUTE 837.021(3)(d)

This also establishes that probation officer Ms. Louis' testimony was false when she made this statement. (i.e. on page #5 lines 1-9)

A: I'm not sure exactly the date I gained this case, but I did instruct him on December 6th of 2013.

Q: So at some point prior to December 6th of 2013, you were officially assigned Mr. Broviak's case?

A: Correct

Ms. Louis's credibility should have been questioned by the officers of the court, but it was not; her testimony was inconsistent, invalid, and false.

Based on information mentioned herein ground two. This

Tampa Bay Times

WINNER OF 12 PULITZER PRIZES

Attorney appeals Hillsborough judge's order protecting a fellow jurist from questioning



Anna M. Phillips, Times Staff Writer

Friday, September 26, 2014 6:03pm

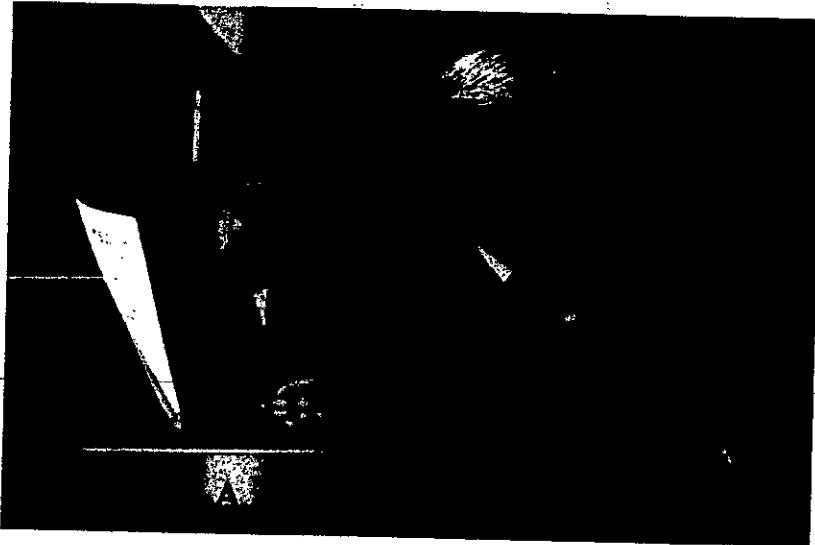
TAMPA — For more than two decades, Hillsborough Circuit Court Judge Chet Tharpe has listened to testimony from some of the area's most hardened criminals. But a recent effort to require him to answer questions under oath about his role in an attempted murder case is not going as smoothly as his daily courtroom proceedings.

On Friday, a month after a judge rejected his demand to question Tharpe, Tampa lawyer Mark O'Brien said he has petitioned Florida's 2nd District Court of Appeal to reverse the decision. If he is successful, Tharpe could be forced to reveal the details of his out-of-court communications regarding the case.

Disagreement over whether Tharpe can be deposed — a legal demand that is almost never made of judges — stems from his unusual involvement in the case of Matthew Buendia, a former Marine who shot a Hillsborough sheriff's deputy in 2011. Although Tharpe was not the judge assigned to Buendia's case, or the judge on duty the weekend of his arrest, he intervened and called the jail to revoke Buendia's bond after Hillsborough Sheriff David Gee complained publicly that it was too low.

Tharpe's actions have led to criticism that he overstepped the bounds of Florida's Rules of Criminal Procedure. But they have also led O'Brien to wonder who the veteran jurist talked to, and what evidence was shared with him that would have led him to revoke the \$65,000 bond. As Buendia's attorney, he says he has a right to this information.

O'Brien has previously tried to get Gee and Hillsborough State Attorney's Office spokesman Mark Cox to answer these same questions, but both men have successfully fought off his subpoenas. Tharpe has tried to do the same.



Hillsborough Circuit Judge Chet Tharpe revoked a suspect's bail.

In August, Hillsborough Circuit Court Judge Lisa Campbell issued a decision rejecting O'Brien's request to depose Tharpe.

"This area of inquiry would require Judge Tharpe to testify about his thought process," she wrote, which "is prohibited by law."

In his petition to the court of appeal, O'Brien wrote that "he is not seeking Judge Tharpe's mental processes." Rather, he has four questions for the judge: Who did you talk to on Oct. 2, 2011? How did you talk to them? When? And what did they tell you?

Campbell did not take well to O'Brien's decision to appeal on Friday. After initially granting his request for a stay, she appeared agitated and quickly reversed herself before moving on to the next case.

Contact Anna M. Phillips at aphillips@tampabay.com or (813) 226-3354. Follow @annamphillips.

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Tampa Bay Times

WINNER OF 12 PULITZER PRIZES

Claims of bias in child porn cases arise for Hillsborough Judge Chet Tharpe

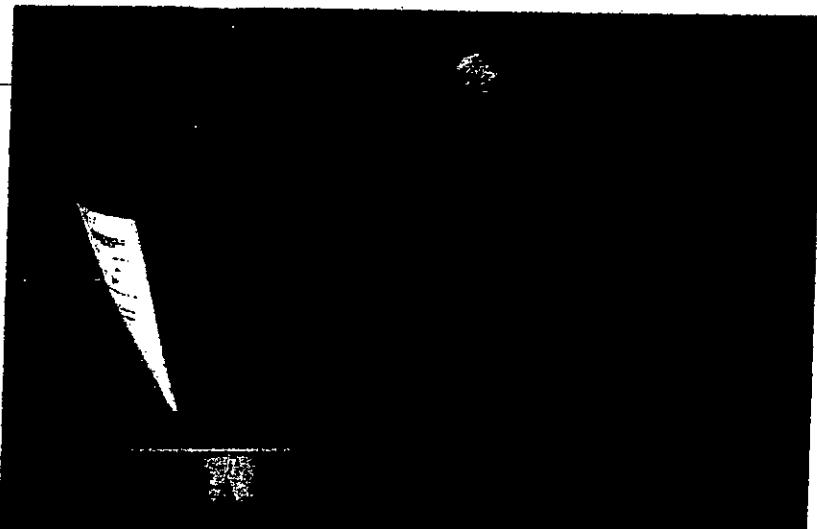
Anna M. Phillips, Times Staff Writer

Saturday, October 4, 2014 8:18pm

TAMPA — One day in September 2012, lawyer Michael Maddux walked out of a Hillsborough courtroom in shock. He couldn't believe what had just happened to his client, a middle-aged man with no criminal record who, prosecutors said, obsessively downloaded and categorized more child pornography than anyone else they had ever come across.

Peter Barnhill, 44, had more than 400,000 ghastly images on his hard drive. But there was no evidence he had ever touched a child, and he had passed a polygraph exam attesting to that. A psychologist who specializes in examining sex offenders pronounced him "low risk." Maddux thought his client might get, at most, five years in prison. Hillsborough Circuit Court Judge Chet A. Tharpe gave him 22.

"This child pornography phenomenon, if you will, is becoming an epidemic," Tharpe said in an emotional speech from the bench. There was a 50-50 chance that Barnhill would molest a child one day, he said, citing a study from 2011. "That is scary," he said. "We're not talking about a fantasy."



STEPHEN J. CODDINGTON | Times

"Even to the most casual observer, it could not be believed that (Peter) Barnhill received a hearing in a dispassionate environment before a fair and impartial judge," Florida's 2nd District Court of Appeal wrote.

Months later, in a sharply worded decision that could affect whether Tharpe continues to hear child pornography cases, Florida's 2nd District Court of Appeal ruled that Barnhill would have to be resentenced, and by a different judge. The court faulted Tharpe for "abusing his discretion" by lumping Barnhill in with child molesters and rapists. The veteran jurist had implied that he would never consider giving a lighter sentence in a child pornography case, regardless of the facts.

"Even to the most casual observer, it could not be believed that Barnhill received a hearing in a dispassionate environment before a fair and impartial judge," the court wrote.

The decision was "en banc" or "entire bench," a rare unanimous ruling from all 13 appellate judges.

News of the Barnhill decision rippled through the courthouse, attracting the attention of lawyers who wondered if they could use it to disqualify Tharpe from their child pornography cases. Tampa defense attorney Frank de la Grana, who is among the first to use the decision in an appeal, said the ruling came only days before he was scheduled to argue a similar case before the appellate court.

De la Grana's client is Jay Goldstein, a former assistant swimming coach at Berkeley Preparatory School in Tampa. Tharpe sentenced him last year to 20 years in prison for possessing child pornography.

"It was like Christmas in the middle of the summer," de la Grana said. "All the heavy lifting was done."

He is awaiting a decision but expects that the appellate court will have Goldstein resentenced by a different judge.

More lawyers, including assistant public defenders, are expected to file motions asking Tharpe to recuse himself from their cases. Hillsborough Public Defender Julianne Holt would not comment on the appellate court's decision, but her office is examining 14 open child pornography cases assigned to Tharpe that could be affected by the Barnhill ruling.

Anticipating those appeals, Maddux sent Chief Judge Manuel Menendez Jr. a letter in August suggesting it was time to dissolve the sex offender division and reassign Tharpe. It would be a "win/win," he wrote diplomatically. The court could avoid a slew of disqualification motions, and no judges would become "heavy-handed due to burnout."

Menendez, who is retiring at the end of this year, did not respond, Maddux said. Neither he nor Tharpe responded to requests for comment. Other circuits rotate judges among divisions, a move that incoming Chief Judge Ronald Ficarrotta said he is considering.

In addition to the public admonition Tharpe received in the Barnhill decision, the judge has become entangled in a separate case in which a lawyer is attempting to depose him. The lawyer in that case says Tharpe improperly revoked his client's bail, overriding the bail set by another judge, in violation of the Florida Rules of Criminal Procedure.

Elected to the bench in 1990, Tharpe is Hillsborough County's only sex offender judge. His docket is a mix of accused rapists, child abusers and pedophiles sitting shoulder to shoulder in hushed misery. From his perch in Courtroom 15, he has cultivated a reputation for harsh sentences, but he seems to have a particularly deep well of disgust for people accused of making or possessing child pornography.

In 2013, he sentenced Roy W. Thomas, a Hillsborough County physics teacher who pleaded guilty to possessing child porn, as well as taking the pictures himself, to more than 1,500 years in prison. Thomas, 66, has the fifth-longest prison sentence in Florida among inmates not sentenced to life. His release date is July 30, 3522.

In another case that made headlines, Tharpe sentenced Christopher Renshaw, who pleaded guilty to molesting, beating and filming young boys. Dr. Peter Burston, the same psychologist who testified at Barnhill's sentencing, said Renshaw was mentally disabled. Tharpe gave him the maximum on each count: 690 years in prison. The victims applauded.

Maddux recalled a more recent case of his, in which Tharpe rejected a plea deal in favor of a significantly longer prison sentence.

"The people in the audience were speechless," he said. "I think there's a lot of speechless people coming out of there."

Researcher John Martin contributed to this report. Contact Anna M. Phillips at aphillips@tampabay.com or (813) 226-3354. Follow @annamphillips.

Claims of bias in child porn cases arise for Hillsborough Judge Chet Tharpe 10/04/14
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Tampa Bay Times

WINNER OF 12 PULITZER PRIZES

Appellate court again takes issue with a Tampa judge's sentence

By Anna M. Phillips

Monday, June 1, 2015 6:48pm

TAMPA — For the third time in a year, an appellate court has issued an opinion rebuking Hillsborough Circuit Judge Chet Tharpe for improperly sentencing a defendant.

In the halls of Tampa's courthouse, Tharpe is known for taking a hard line. But it's not the lengthy sentences the veteran judge hands down that are landing him in trouble. It's his penchant for basing sentencing decisions on factors that judges are expressly forbidden from taking into account.

The latest decision arrived on May 22, when the 2nd District Court of Appeal overturned the life sentence Tharpe gave Jonathan Williams, a 31-year-old with a long criminal record who was convicted of sexual battery and robbery in 2012. The court sent the case back to Hillsborough County with instructions that a different judge resentence Williams.

While the court found that Williams' life sentence was legitimate, it criticized Tharpe's legal reasoning, which relied largely on his frustration with the defendant's cool demeanor and the alibi he gave at trial. Tharpe and Williams already had a history — in 2004, the judge sentenced him to 30 years in prison. This decision was also overturned.

"You have absolutely no remorse whatsoever," Tharpe told Williams. "And that is more of an impact on this court's reasoning for the sentence that I'm about to impose than any other reason."

Although federal judges can reward defendants who take responsibility for their crimes, there is no such allowance in the state's justice system and defendants can't be penalized for refusing to admit guilt.

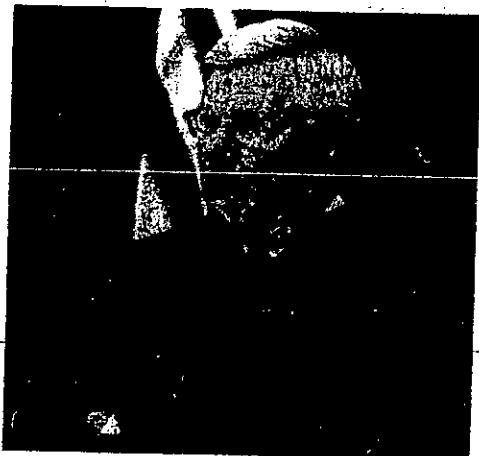
When a judge "expressly considers the improper factors of a defendant's assertions of innocence and refusal to admit guilt, the truthfulness of his testimony, or the failure to show remorse, fundamental error and a denial of due process occur," the court wrote in its decision.

Williams' behavior at trial might have set anyone's teeth on edge. Accused of pulling a gun on a woman at a bus stop, forcing her to perform oral sex on him, and then throwing away her cellphone so she couldn't call the police, he took the stand and told a brazen and unbelievable story.

By the time police arrested Williams in August of 2010, they had matched his DNA, collected during an earlier stint in prison, to semen found at the bus stop. Yet Williams tried to convince the jury that police had the wrong man. He said that in the early morning before the woman was attacked, he left a Nebraska Avenue strip club, fell asleep on the bus stop bench, and had an "erotic dream" that caused him to leave semen behind.

The "wet dream defense," as the judge called it, changed neither hearts nor minds, though it did turn a few stomachs. The jury convicted Williams of all charges and Tharpe gave him the maximum sentence allowed, saying his outlandish story was a sign of his lack of feeling. Neither Tharpe nor Williams' attorney responded to requests for comments.

Prone to lecturing defendants he finds particularly disgraceful, Tharpe has landed in similar situations twice recently.



The opinion faults Judge Chet Tharpe's legal reasoning.

In January, the court reversed Tharpe on similar grounds in another child pornography case in which he rejected a plea deal of 10 years in prison and sentenced the defendant to 20 years. By then, Hillsborough's outgoing chief judge had decided to dissolve the sex offender division, in which Tharpe was the sole judge. He was reassigned and continues to preside over felony cases.

Contact Anna M. Phillips at aphillips@tampabay.com or (813) 226-3354. Follow her @annamphillips.

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Judge blamed in woman's motion for new trial

The woman, convicted of manslaughter, claims Judge Chet Tharpe had improper separate talks with lawyers on both sides of the case.

By LARRY DOUGHERTY

© St. Petersburg Times, published March 25, 2000

TAMPA -- Attorneys for a woman convicted of manslaughter claim she should get a new trial because a Hillsborough circuit judge held separate one-on-one discussions with prosecutors and a former defense attorney in her case, according to a motion filed Friday.

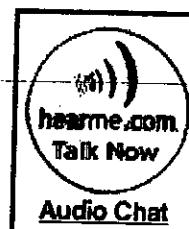
Hillsborough Circuit Judge Chet Tharpe "engaged in conduct specifically prohibited by the Code of Judicial Conduct and by case law," the motion argues. As evidence, it cited a statement Tharpe gave last year to federal investigators.

Court rules require judges to discuss case issues in the presence of both the prosecution and the defense. But the end result, the motion claims, was a violation of the constitutional rights of Stephani Tanner, now serving a 17-year sentence for the manslaughter of her girlfriend Charlotte Malloy in 1996. The motion seeks a new trial or sentence reduction.

The judge's attorney, Norman S. Cannella Sr., called the allegations "hogwash."

The motion treads ground already covered by a federal grand jury investigation into a former high-ranking state prosecutor and his relationship to one of Tanner's

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defense lawyers. The defense lawyer had represented the prosecutor in an unrelated personal-injury action.

The focus of the grand jury investigation was unknown, but allegations of evidence tampering in Tanner's case were involved. Last year, the investigation concluded without any charges being filed against the prosecutor, Curt Morgan, or the defense attorney, Eddie Suarez.

A copy of Tharpe's statement to federal investigators was attached to Friday's motion. In it the judge, with Cannella at his side providing legal counsel, describes a 1997 conversation Tharpe had with Suarez in his chambers one afternoon after the Tanner trial had concluded for the day. Tharpe's bailiff was close by, and people were walking in and out of the room.

According to the statement, the judge told Suarez he was surprised that Suarez had commissioned a demonstration of the .22-caliber rifle that had killed Malloy in front of the jury, without knowing whether the bullets would stay in the gun or fall out. That was a key element of whether Tanner knew the gun was loaded, and whether the shooting was accidental.

According to the judge, Suarez replied, " "I knew that the bullets would stay in . . . We had tested the gun with various bullets. . . We used the bullets that would stay in the gun.' "

Tharpe's lawyer said Friday he didn't think there was anything questionable about such a conversation.

Tharpe mentioned his conversation with Suarez to a state prosecutor the next day, Tharpe's statement recounts, and state prosecutors commenced a criminal investigation into possible manipulation of evidence. No charges were filed.

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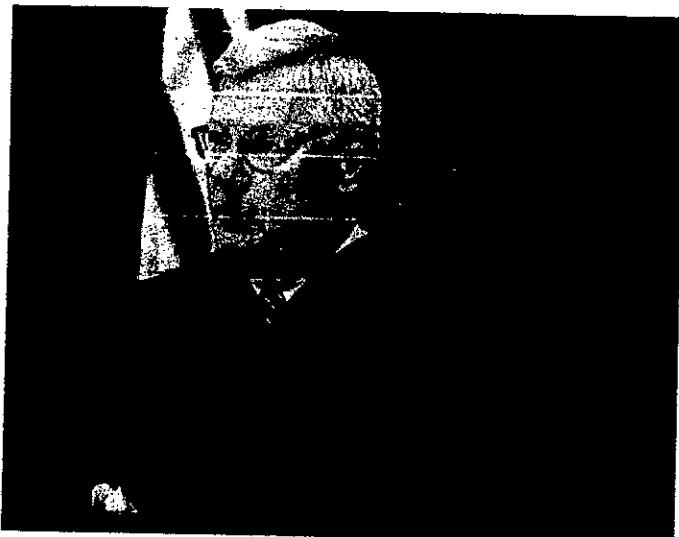
HILLSBOROUGH'S CONTROVERSIAL SEX OFFENDER COURT IS DISMANTLED



Sue Carlton, Times Columnist

[View all Articles](#)

WEDNESDAY DECEMBER 21, 2005 BY SUE CARLTON



Judge Chet Tharpe, who presided over the sex crimes court for 14 years, is known for dramatic pronouncements and sometimes lengthy sentences.

TAMPA — For 14 years, criminal cases involving accused rapists, molesters and child abusers in Hillsborough County have been heard by a single judge in the sex offender division.

Advocates of this highly specialized court for pedophiles and predators call it a smart, efficient way to handle difficult cases with unique sensitivities. But critics say no judge can hear the horrifying details of rape and abuse day after day without becoming biased — particularly when children are victims.

And they point to Circuit Judge Chet Tharpe — known for his dramatic pronouncements, his sometimes lengthy sentences and his recent rebuke from an appeals court — as proof.

Now Hillsborough's sex offender court is no more.

This week, Circuit Judge Manuel Menendez Jr. dissolved the division in one of his last acts as chief judge before he retires. Menendez informed the judges that as of Jan. 1, sex and child abuse cases will be randomly distributed among criminal court judges who hear felony cases ranging from grand theft to murder.

The move, he said, had been "contemplated for a while."

"I thought we needed resources elsewhere, and this is a way of doing that," Menendez said, pointing out that no special division exists for murders, which are also complex and important cases.

Tharpe, on the bench for 24 years and in sex offender court for eight, could not be reached for comment Wednesday.



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Entries in Judge Chet Tharpe (1)

Friday
Jan 14 2011

Rape Suspect Grills Alleged Victim, Then Asks for Lawyer

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Photo Courtesy - ABC News (TAMPA, Fla.) - A rape suspect who is acting as his own lawyer grilled his alleged victim on the details of the sex assault, and then asked the judge for a court-appointed lawyer - who could now call the woman back to the stand and make her relive the ordeal again.

Rape suspect Luis Munuzuri-Harris had repeatedly rejected suggestions he use the public defender, but changed his mind after he questioned his accuser.

The woman's name is being withheld because she may be a victim of a sex crime.

Before asking for a lawyer, Munuzuri-Harris, 31, infuriated the judge with his tactics, as well as accusing the judge of trolling the Internet during the trial.

When scolded by Judge Chet Tharpe for inappropriate behavior and improper questions, Munuzuri-Harris told the judge, "I'm not a dog you need to bark orders at."

Tharpe has appointed a public defender for the defense, but he is also considering whether to declare a mistrial and start over. A new trial would also require the woman to repeat the details of the alleged attack.

Munuzuri-Harris faces felony charges including impersonating a police officer, sexual battery, aggravated assault and forced kidnapping. If convicted, he faces life in prison, according to court records.

The charges stem from a July 2010 night when prosecutors allege Harris drove along Bayshore Boulevard in Tampa impersonating an undercover narcotics officer. He allegedly pulled over the woman now accusing him of rape.

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Friday, January 14, 2011 at 9:19AM by jc [Permalink](#)
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" We the People " Judge

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»posted on Thursday, January 8th, 2015 at 5:56 pm by admin

Hillsborough Circuit Judge Chet Tharpe Sentencing Reversal

This week Florida's [2nd District Court of Appeals](#) reversed a sentence imposed by Hillsborough Circuit Judge Chet Tharpe in a criminal case involving 100 counts of possession of child pornography. Tampa Bay attorneys [Frank De La Grana](#) and [Kenneth Siegel](#) obtained an appellate victory on behalf of their client. Attorneys [De La Grana](#) and [Siegel](#) argued that Judge Tharpe committed fundamental error in the sentencing standard he applied. The [2nd DCA](#) agreed and reversed the sentence stating that Judge Tharpe applied a "personal" general policy such as applied in [Barnhill v. State](#) (Judge Tharpe reversed in [Barnhill](#) as well) rather than following Florida law.

Opinion: [Goldstein v. State](#)

IN THE THIRTEENTH JUDICIAL CIRCUIT COURT
OF FLORIDA IN AND FOR HILLSBOROUGH
COUNTY

STATE OF FLORIDA
Plaintiff

v.

Case No. All

LAWRENCE BROVIAK
Defendant

MOTION TO CONVERT FINES TO JAIL
TIME AND RUN CONCURRENT TO PRESENT
STATE SENTENCE

COMES NOW, the Defendant, -
acting pro se respectfully moves This
Honorable Court to convert any and all outstanding
fines and/or costs to jail time. Defendant would further
her request this Court to run said jail time concurrent
with his present sentence in the Florida Department
of Corrections. In support thereof Defendant states:

JURISDICTION

Defendant invokes the jurisdiction of This Honorable
Court to hear and decide his said Motion herein and
relief sought herein.

STATEMENT OF FACTS

1. That the present sentence being served renders Defendant unable to pay above described fees, fines or costs associated with traffic courts;
2. It is in the best interest of justice to close the pending case supra, and to enable Defendant to obtain his privileges upon release from incarceration.

CONCLUSION / RELIEF SOUGHT

WHEREFORE, the Defendant prays that this Honorable Court grant this motion, and upon granting of said motion, provide Defendant with the written statement of satisfaction of fines etc. for purpose of forwarding to the Department of Highway Safety and Motor Vehicles.

DECLARATION / CERTIFICATE OF SERVICE

HAVING READ the following information mentioned herein said Motion, I swear under penalties of perjury that the following and foregoing is true and correct (ie FLORIDA STATUTE 925.25(2)(1) and STATE v. SHEARE, 628 So. 2d. 1102 (Fla. 1993) I HEREBY CERTIFY that a true and correct copy hereof has been furnished to the office of the attorney general, 3507 East Frontage Road, Suite #700, 33607 Tampa, Florida, on this 4th day of May 2023, in accordance with the mailbox rules by entrusting it to the care of The Franklin Correctional Institution Officials to forward through The United States Postal Services.

Respectfully Submitted,
LAWRENCE BROVIAK FDOC# 501873
Lawrence Broviak
Franklin Correctional Institution
760 Hwy 67 North
Carrabelle, Florida 32322

Classification Officer YEO MAN Maximum Release Date 5/5/27 Overall Sentence 13 Yr 9 Mo 9 Day
Inmate Number: 12 Tentative Release Date: 5/1/27 Gaintime Eligibility: 10 Days per Month
Jail Credit: 301 85% Release Date 4/11/25 Visitation Restriction: Yes or No
As of 7/24/14 You Have Served 359 Days toward Your Sentence, This includes the 301 Days of Jail Credit

CLASSIFICATION: YOU WILL BE CLASSIFIED TO A PERMANENT FACILITY IN APPROXIMATELY FOUR TO SIX WEEKS. YOUR CUSTODY WILL BE DETERMINED AT THAT TIME. NO DECISIONS CAN OR WILL BE MADE BEFORE THEN REGARDING YOUR PERMANENT LOCATION. THE CLASSIFICATION TEAM WILL CONSIDER MANY FACTORS WHEN YOU ARE CLASSIFIED TO INCLUDE CUSTODY, MEDICAL GRADE, PROGRAM NEEDS, KILLS, PRIOR ADJUSTMENT, BED SPACE AVAILABILITY, AND FAMILY LOCATION. THERE ARE NO CONSIDERATIONS FOR HARSHIPS TRANSFERS.

OUR TEAM OFFICER WILL HANDLE ALL ROUTINE INMATE REQUESTS. REQUESTS MUST STATE SPECIFIC QUESTIONS OR ISSUES TO BE CONSIDERED. IF YOU MEET THE CRITERIA STANDARDS FOR THE EAST UNIT, YOU MAY BE TRANSFERRED THERE PENDING TRANSFER TO ANOTHER FACILITY. THE EAST UNIT DOES NOT CLASSIFY INMATES IN THE RECEPTION PROCESS. IF YOU FIND OUT THAT YOU ARE TRANSFERRING FAR FROM HOME, THE OFFICER AT THE EAST UNIT CANNOT AND WILL NOT RECLASSIFY YOU.

SENTENCE STRUCTURE ISSUES: CLASSIFICATION DOES NOT CALCULATE YOUR RELEASE DATE. IF YOU FEEL THAT YOU WERE NOT SENTENCED ACCORDING TO YOUR COURT ORDERS, PLEA AGREEMENTS, INSUFFICIENT JAIL CREDIT, CONSECUTIVE OR CONCURRENT TERMS, WRITE THE LAW LIBRARY. BE SPECIFIC ABOUT THE POSSIBLE DISCREPANCY YOU FEEL YOU HAVE.

GAINTIME: YOU ARE ELIGIBLE TO EARN GAINIME AS LISTED ABOVE, YOUR GAINIME ELIGIBILITY MAY CHANGE, WITHOUT NOTICE AS YOUR SENTENCE STRUCTURE CHANGES, OR IF YOU HAVE MULTIPLE CASES, OR IF YOU ARE HERE FOR MORE THAN SIXTY DAY YOU WILL BE ASSIGNED A JOB. JOBS ARE ASSIGNED TO YOU, NOT CHOSEN BY YOU. JOBS ARE NOT ASSIGNED PRIOR TO SIXTY DAYS.

WORK RELEASE PROGRAM: YOU ARE NOT ELIGIBLE FOR WORK RELEASE UNTIL YOU HAVE BEEN IN THE DEPARTMENTS CUSTODY FOR AT EAST SIXTY DAYS. YOU WILL BE REVIEWED FOR WORK RELEASE AT THAT TIME, IF YOU MEET OTHER ELIGIBILITY CRITERIA. WORK RELEASE IS A PRIVILEGE, NOT A RIGHT. IF YOU QUALIFY FOR WORK RELEASE, BED SPACE IS LIMITED, SO BE PATIENT.

PROBATION CASE: IF YOU ARE RETURNING AS A PROBATION VIOLATOR, WHO WAS PREVIOUSLY IN PRISON ON THE SAME CASE, YOUR FILE WILL BE AUDITED BY TALLAHASSEE. WHEN THE AUDIT IS COMPLETED, YOU WILL BE NOTIFIED IN WRITING OF YOUR TIME SERVED CREDIT, GAINIME WARDS, AND CORRECTED TENTATIVE RELEASE DATE. UNTIL THE AUDIT IS COMPLETED AND THE DATABASE CORRECTED, YOUR RELEASE DATES ARE INCORRECT.

VIOLATORS: CONTROL AND CONDITIONAL RELEASE VIOLATORS WILL BE REVIEWED BY THE PAROLE COMMISSION IN TALLAHASSEE, USUALLY WITHIN NINETY DAYS OF RECEIPT. YOU WILL HAVE NO TENTATIVE RELEASE DATE OR CORRECTED MAX DATE UNTIL THE COMMISSION ACTION IS VERIFIED AND ENTERED ON THE DATABASE. THIS TAKES PLACE USUALLY WITHIN THREE TO FOUR WEEKS OF THE DOCKET. DO NOT INQUIRE ABOUT YOUR RELEASE DATE OR DOCKET ACTION UNTIL YOU RECEIVE PAPERWORK FROM THE PAROLE COMMISSION.

HERE ARE NO EARLY RELEASE PROGRAMS

VISITATION: VISITATION FORMS MAY BE REQUESTED ONCE YOU HAVE ARRIVED AT YOUR PERMANENT FACILITY. YOU MAY HAVE UP TO FIFTEEN PEOPLE APPROVED ON YOUR VISITATION LIST. PERSONS 12 YEARS OLD AND OLDER MUST COMPLETE A FORM. YOU WILL BE NOTIFIED ONCE THEY HAVE BEEN APPROVED OR DENIED. YOU WILL BE RESPONSIBLE TO NOTIFY THE INDIVIDUALS OF THEIR STATUS. THERE IS NO SET TIME FOR PROCESSING. IF YOU MEET THE CRITERIA FOR VISITATION RESTRICTION, F.S. 944.09, NO ONE AT THE AGE OF SEVENTEEN OR YOUNGER MAY VISIT WITHOUT THE PRIOR APPROVAL OF THE WARDEN AND/OR A COURT ORDER.

TELEPHONE LIST/PIN NUMBERS: YOUR CLASSIFICATION OFFICER WILL ASSIGN YOU A PERSONAL IDENTIFICATION NUMBER (PIN) FOR YOUR TELEPHONE PRIVILEGES. ALL TELEPHONE CALLS ARE MONITORED. DISCIPLINARY ACTION CHARGES AND/OR SUSPENSION OF PHONE PRIVILEGES WILL BE BROUGHT AGAINST YOU, SHALL YOU FEEL THE NEED TO SHARE YOUR (PIN) WITH ANOTHER INMATE. THE APPROVAL TIME FOR (PIN) NUMBERS FROM OUR PHONE CONTRACTOR IS TAKING FOUR TO SIX WEEKS, AFTER THE PAPERWORK HAS BEEN SUBMITTED. REMEMBER LYING IN THE TELEPHONE LIST FORM IS THE SAME AS LYING TO STAFF AND YOU WILL BE PUNISHED BY MEANS OF DISCIPLINARY ACTION AND THE DENIAL OF PHONE PRIVILEGES. YOU MAY ADD TO OR CHANGE YOUR PHONE LIST ACCORDING TO YOUR DC NUMBER DURING DESIGNATED MONTHS. IF THERE ARE ANY CHANGES IN YOUR PHONE NUMBERS, YOU MUST SUBMIT ORIGINAL VERIFICATION IN THE FORM OF A PHONE BILL FROM WHOM THE NUMBER BELONGS TO, TO YOUR CLASSIFICATION OFFICER FOR REVIEW AND UPDATE.

LEGAL PHONE CALLS: INMATES SHALL BE ALLOWED TO MAKE A PHONE CALL TO ATTORNEY UPON PRESENTATION OF EVIDENCE THE CALL IS NECESSARY. SUCH EVIDENCE SHALL BE A LETTER FROM ATTORNEY REQUESTING A RETURN CALL OR A COURT ORDER CONTAINING A DEADLINE. THE INMATE CANNOT MEET IF HE MUST COMMUNICATE BY LETTER WITH ATTORNEY. SUBMIT AN INMATE REQUEST WITH ATTORNEY'S NAME, ADDRESS, PHONE NUMBER AND ATTACH DOCUMENTATION OF DEADLINE. AN ATTORNEY MAY MAKE PRIOR ARRANGEMENTS FOR A LEGAL PHONE CONFERENCE WITH THE INMATE BY CONTACTING CLASSIFICATION. AN INMATE MAY REQUEST FORM DC6-214 FOR INCLUSION OF ATTORNEY'S PHONE NUMBER ON THE INMATE'S PHONE LIST. THIS LIST MUST BE COMPLETED BY YOUR ATTORNEY AND RETURNED TO CLASSIFICATION. ALL LEGAL CALLS WILL BE MADE COLLECT TO THE ATTORNEY.

LEGAL PHONE CALLS WILL NOT BE ISSUED TO CALL A FAMILY MEMBER/GIRLFRIEND TO INQUIRE ABOUT WHAT IS HAPPENING WITH YOUR CASE OR ANY OTHER LEGAL MATTER.

INMATE NAME: Broviak, L

DC# 501873

IN NUMBER: 05018736880

IN THE COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA

STATE OF FLORIDA,
Plaintiff,

V.

Case No.: 12-CF-001632

LAWRENCE BROVIAK,
Defendant,

MOTION TO CORRECT ILLEGAL SENTENCE

COMES NOW the defendant, Lawrence Broviak, and moves this court pursuant to Fla. R. Crim. P. Rule 3.800(a) to correct the illegal sentence in this case: as grounds states the following facts apparent on the face of the record and law:

JURISDICTION

Our Court has reasoned that "A sentence that patently fails to comport with statutory or constitutional limitations is by definition 'illegal'." *State v. Mancino*, 714 So. 2d 429, 433 (Fla. 1998). An illegal sentence can be corrected at any time pursuant to Fla. R. Crim. P. Rule 3.800(a). Additionally, *res judicata* does not apply to a motion filed pursuant to Fla. R. Crim. P. Rule 3.800(a) and collateral estoppel does not overcome a showing of a manifest injustice. See *State v. McBride*, 848 So. 2d 287 (Fla. 2003).

IN THE
THIRTEENTH JUDICIAL CIRCUIT COURT
HILLSBOROUGH COUNTY, FLORIDA

PROVIDED TO
JEFFERSON C.I.

JUL 19 2018

4B
FOR MAILING
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STATE OF FLORIDA,
Plaintiff,

v.

Case No.: 12-CF-001632

LAWRENCE BROVIAK,
Defendant,

**MEMORANDUM OF LAW AND FACTS IN SUPPORT OF
MOTION FOR POST CONVICTION RELIEF**

A. STATEMENT OF THE CASE AND STATEMENT OF FACTS.

1. Defendant was charged with 42 counts of possession of child pornography. On May 31, 2012, Defendant pleaded guilty pursuant to a negotiated plea agreement to ten counts of child abuse. On the same day, the trial court sentenced the Defendant to five years probation on count one, and three years probation on counts two through ten to run consecutively to count one.

On May 27, 2014, the trial court revoked Defendant's community control and sentenced him to 165.3 months prison, with all counts to run concurrently.

Defendant appealed the order revoking his community control and his revocation sentence. On November 4, 2015, the appellate court affirmed his revocation and sentence, but remanded with instructions to strike the reference to a violation of condition number 16 in the order revoking community control. The mandate was issued December 4, 2015. The Defendant was granted an extension time to file his 3.850 on May 21, 2018.

CLERK'S COURT
CIRCUIT COURT
2018 JUL 23 AM 11:24
COURTS

dubious absent any other evidence.

As the trier of fact in a community control revocation proceeding, it is within the domain of the trial court to determine the credibility of a witness' testimony and evaluate conflicts in the evidence. In this case, the court evaluated and weighed the testimony, resolved the contradictions adversely to Appellant, and found Ms. Gean-Louis to be a more credible witness. (V 2 T 268). Competent substantial evidence supports the trial court's finding that Appellant willfully and substantially violated his probation.

* The question then turns to whether the trial court abused its discretion in revoking probation. Appellant has repeatedly violated his probation and community control by engaging in violent behavior, using illicit drugs, and disregarding his curfew. The trial court was at liberty to impose any sentence it might initially have imposed before placing Appellant on probation then community control. Hill v. State, 927 So. 2d 1047 (Fla. 2d DCA 2006). In light of the circumstances the trial court made a reasonable decision to revoke Appellant's community control and sentence him to the bottom of the sentencing guidelines which is one hundred sixty five months in prison. (V 2 T 268).

presented in Appellant's case. In McCray there was no conflict between the testimony of the state's witness and the defendant's witnesses. At Appellant's revocation hearing conflicts in the testimony were present.

First, conflict exists in the evidence pertaining to how Appellant contacted Ms. Gean-Louis. Appellant says he left a message for the probation officer while Ms. Gean-Louis informed the court that was not true. Also conflict exists in the evidence as to how Appellant eventually arrived at his residence. Appellant gave testimony that he had to negotiate an unpredictable bus system to eventually arrive at his residence. Ms. Gean-Louis informed the court that was not true. Appellant advised her that he was able to secure a ride home after he missed the bus.

Additionally, Appellant testified his phone became damaged at some prior date so he was incapable of calling the emergency number. (V2 T 263). Appellant did not disclose this information to his probation officer previously which is evidenced by Ms. Gean-Louis' testimony that she called him earlier that same day on the cell phone number he provided. Appellant did not mention the loss of his cell phone until he needed an excuse for disobeying the mandate that he call his probation officer if he was going to be late. Based upon conflicts in the testimony it was reasonable for the court to find Appellant's assertions

EXHIBIT C

IN THE THIRTEENTH JUDICIAL CIRCUIT COURT
FOR HILLSBOROUGH COUNTY, FLORIDA
Criminal Justice Division

STATE OF FLORIDA,

CASE NO.: 12-CP-061632

v.

LAWRENCE BROVIAK,
Defendant.

DIVISION: I/J

ORDER FOR DEFENDANT TO ACKNOWLEDGE WARNINGS AND ORDER FOR
DEFENDANT TO RESPOND

THIS MATTER is before the Court on Defendant's Motion for Postconviction Relief, filed July 23, 2018, pursuant to Florida Rule of Criminal Procedure 3.850. After reviewing Defendant's motion, the court file, and the record, the Court finds Defendant's sentence(s) was/were the result of a revocation hearing. Consequently, the Court finds it necessary to warn Defendant of the following:

State is not obligated to renew any previously made plea offers
or extend any new offers

-If Defendant is successful in having his/her conviction(s) set aside, the State is not obligated to renew any previously made plea offers or extend any new offers to Defendant.

Possible Imposition of Harsher Sentence(s)

-If Defendant is successful in having his/her conviction(s) set aside, absent a new plea agreement, upon conviction of the offense(s) charged in the information or any lesser included offenses, he/she will once again be exposed to all applicable legal sentence(s) and applicable legal enhancements he/she previously qualified for, including, but not limited to the following:

Standard Statutory Maximum; Section 775.082, Florida
Statutes:

-for a life felony, by a term of imprisonment for life.

-for a felony of the first degree, by a term of imprisonment not exceeding 30 years or, when specifically provided by statute, by imprisonment for a term of years not exceeding life imprisonment.

NAME (LAST, FIRST, MI)

DIVINE L.

DOCKET #

Page _____ Subtotal: *2834*

V. Legal Status violation = 4 Points

Escape Fleeing Failure to appear Supersedeas bond Incarceration Pretrial intervention or diversion program
 Court imposed or post prison release community supervision resulting in a conviction

V. *1*

VI. Community Sanction violation before the court for sentencing

Probation Community Control Pretrial Intervention or diversion

VI. *12*

6 points for any violation other than new felony conviction x _____ each successive violation OR
 New felony conviction = 12 points x _____ each successive violation if new offense results in conviction before or at same time as sentence for violation of probation OR
 12 points x _____ each successive violation for a violent felony offender of special concern when the violation is not based solely on failure to pay costs, fines, or restitution OR
 New felony conviction = 24 points x _____ each successive violation for a violent felony offender of special concern if new offense results in a conviction before or at the same time for violation of probation

VII. Firearm/Semi-Automatic or Machine Gun = 18 or 25 Points

VII.

VIII. Prior Serious Felony - 30 Points

VIII. Subtotal Sentence Points

IX. Enhancements (only if the primary offense qualifies for enhancement)

Law Enf. Protect.

Drug Toggler

Motor Vehicle Theft

Criminal Gang Offense

Domestic Violence in the Presence of Related Child
(offenses committed on or after 3/12/07) x 1.5 x 2.0 x 2.5 x 1.5 x 1.5 x 1.5 x 1.5Enhanced Subtotal Sentence Points TOTAL SENTENCE POINTS SENTENCE COMPUTATION

If total sentence points are less than or equal to 44, the lowest permissible sentence is any non-state prison sanction. If the total sentence points are 22 points or less, see Section 775.082(10), Florida Statutes, to determine if the court must sentence the offender to a non-state prison sanction.

If total sentence points are greater than 44:

minus 28 = *64* x .75 = *48*

lowest permissible prison sentence in months

If total sentence points are 60 points or less and court makes findings pursuant to both Florida Statute 948.20 and 397.334(3), the court may place the defendant into a treatment-based drug court program.

The maximum sentence is up to the statutory maximum for the primary and any additional offenses as provided in s. 775.082, F.S., unless the lowest permissible sentence under the Code exceeds the statutory maximum. Such sentences may be imposed concurrently or consecutively. If total sentence points are greater than or equal to 363, a life sentence may be imposed.

maximum sentence in years

TOTAL SENTENCE IMPOSED

Years _____ Months _____ Days _____

State Prison Life
 County Jail Time Served
 Community Control
 Probation Modified

Please check if sentenced as habitual offender, habitual violent offender, violent career criminal, prison releasee reoffender, or a mandatory minimum applies.

Mitigated Departure Plea Bargain Prison Diversion Program

Other Reason _____

JUDGE'S SIGNATURE 

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
EN LA CORTE DEL CIRCUITO DEL DECIMOTERCER CIRCUITO JUDICIAL
HILLSBOROUGH COUNTY, FLORIDA
ESTADO DE FLORIDA, EN Y PARA EL CONDADO DE HILLSBOROUGH
CRIMINAL JUSTICE DIVISION
DIVISIÓN DE JUSTICIA PENAL

STATE OF FLORIDA
ESTADO DE FLORIDA

FILED

CASE NO:
NO. DE CASO:

12 CF/632

MAY 31 2012

DIVISION:
SECCIÓN:

14

Lawrence Brovian, CLERK OF CIRCUIT COURT

UNIFORM PLEA, ACKNOWLEDGMENT AND WAIVER OF RIGHTS FORM
FORMULARIO UNIFORME DE DECLARACIÓN, RECONOCIMIENTO Y RENUNCIA DE DERECHOS

CHARGE(S)
CARGO(S)

MANDATORY MINIMUM
PENA MÍNIMA OBLIGATORIA

MAXIMUM PENALTY
PENA MÁXIMA

1-10) Child Abuse F3^o
827.03(1)(c)

5 years FSP

SAC to Nolle Prossessor Counts 11-42
For sections 1 and 2, check either "a" or "b." Para la sección 1 y 2, marque "a" o "b."

1(a) I am pleading guilty, and acknowledge (my guilt) (I feel it is in my best interests to do so).
Me declaro culpable y reconozco (mi culpabilidad) (pienso que es lo que más me conviene hacer).
OR / O

1(b) I am pleading *nolo contendere*, and acknowledge I feel it is in my best interest to do so.
Me declaro no me opongo, y reconozco que es lo que más me conviene hacer.

2(a) I am pleading open to the Court and understand there is no agreement as to what sentence I will receive,
and the Court can sentence me within its discretion.
Me declaro abiertamente ante el juez y entiendo que no existe ningún acuerdo relacionado con la
sentencia que voy a recibir y que el juez puede sentenciar me a su discreción.
OR / O

2(b) I am pleading pursuant to a plea agreement and the terms of that agreement are as follows:
Me declaro conforme a un acuerdo de declaración y los términos son los siguientes:

FSP _____ Psychological evaluation and treatment if necessary _____
Prisión Estatal de Florida Evaluación psicológica y tratamiento (de ser necesario)

County Jail _____ Probation _____ Specified Residency _____
Cárcel del Condado Probatoria 8 years Specified Residency _____
Residencia Especificada

Consecutive to sentence in 11 CF 1880
Plea Letter incorporated by reference
Page 1 of 4

IN THE CIRCUIT COURT IN AND FOR
HILLSBOROUGH COUNTY, STATE OF FLORIDA
CRIMINAL DIVISION(FELONY)

STATE OF FLORIDA

VS.

LAWRENCE ELIOT BROVIAK

AKA(S): LARRY BROVIAK, LAWRENCE E BROVIAK, LAWRENCE ELIOT BROVIAK,
LARRY

CASE NO : 12-CF-001632
DIVISION : H

COUNT
42

CHARGE(S):
POSS OF CHILD PORNOGRAPHY 10 OR MORE IMAGES AN

JUDGMENT AND SENTENCE

FILED

MAY 31 2012

CLERK OF CIRCUIT COURT

The above-named Defendant being now before the Court:

In proper person

With Counsel

Counsel

and the Court being satisfied that the said plea, if applicable, was entered voluntarily and with understanding of the consequences,

SAA

ROBERT MacAvish

1

JENNIFER JOHNSON

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Having:

Entered a plea of Guilty Entered a plea of Nolo Contendere
 Entered a plea of Guilty to the lesser charge on count 1 thru 10 - Child Abuse
 Been tried and found guilty
 Admitted to VOP/VOCC

Found In Violation

The Court adjudicates the defendant guilty of said charge
 The Court withholds adjudication of guilt

It is the order of the Court that the defendant:

Pays all mandatory court costs assessed pursuant to Court Order
 Be placed on Probation for a period of 5 days / months / years for count(s) 1 with conditions:
 Be placed in Community Control I / Community Control II for count(s) _____
 Community Control (I / II) _____ days / months / years for count(s) _____
 Followed by Probation of _____ days / months / years for count(s) _____
 Incarceration Followed by Probation Community Control I / II
 Probation Revoked Community Control revoked

Other counts sentenced as follows: CTS 2 thru 10 - 3 yrs probation

Dismissed _____ Time Served _____ Nolle Prossse _____ Not Guilty _____ Acquitted _____

Committed to the custody of the Sheriff of Hillsborough County, Florida for incarceration in the :

County Jail _____ SRCJ _____ SRCJO _____ with credit for time served _____

as well as the standard conditions of probation specified by a separate Order entered by Department of Corrections, if any.

Concurrent with _____

Consecutive to CTS 2 thru 10 consecutive

If you are a "qualifying offender" under section 943.325, Florida Statutes, you are required to submit a DNA sample in a manner consistent with Florida law.

DONE AND ORDERED IN HILLSBOROUGH COUNTY, FLORIDA, THIS 31ST DAY OF MAY 2012.

Chet Tharpe
CIRCUIT COURT JUDGE CHET A THARPE

AGENCY REPORT # 13-038733

AGENCY NAME HCSO 1815925

State facts to establish probable cause that a crime was committed by the defendant or that the child is defendant. On 04/08/13, At approximately 2050 hours, the defendant was arrested for Battery at 1702 60th Street South East Ruskin, Florida within Hillsborough County, violating his probation. The defendant is on Felony probation for child [REDACTED] Neglect.

Judgement requested against defendant for agency investigative cost per Florida Statute 938.27: \$

OFFICER _____
I.D. # _____ Dist. & Squad _____
(Please Print The Above Information)

SWORN TO AND SUBSCRIBED BEFORE ME THIS

29th Day of April, 2013

NAME/TITLE of Person Authorized to Sign Above

POLICE REPORT WRITTEN: Yes No

OFFICER C. Copeland I.D. # 244823 Dist. & Squad D4/403

I SWEAR THAT THE ABOVE STATEMENTS ARE CORRECT TO THE BEST OF MY KNOWLEDGE. FOR NOTICES TO APPEAR, I ALSO CERTIFY THAT A COMPLETE LIST OF WITNESSES AND EVIDENCE KNOWN TO ME IS ATTACHED.

AFFIANT, Signature C. Copeland (cm)

AFFIANT, Print/Type Name C. Copeland #244823 (cm)

NOTE: The WHITE COPY of VICTIM'S / WITNESSES goes to the Clerk's Office ONLY on Notices To Appear. In all other cases, it should be removed. The Jail or JAC personnel will determine this for all defendants turned over to them. In all Notices To Appear issued by the Arresting Officer, the Arresting Officer should leave the WHITE copy of VICTIM'S / WITNESSES attached.

CLERK OF COURT

SAO FORM-425. 10/03

1815925

WITNESS STATUS: V-Victim C-Complainant W-All Other Witnesses Check If Witness Was Sworn

| | | | | | | | |
|---|----------------------------------|-------|--------|--------|---------|---------------|---------------|
| <input type="checkbox"/> V | Florida Department of Correction | | | | | | |
| STATUS | Last | First | Middle | Place | Sex | Date of Birth | |
| Home Address (Street, Apartment Number) | | | City | State | Zipcode | Phone | |
| Business Address (Street, Apartment Number) | | | City | State | Zipcode | Phone | |
| <input type="checkbox"/> | STATUS | Last | First | Middle | Place | Sex | Date of Birth |
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| Home Address (Street, Apartment Number) | | | City | State | Zipcode | Phone | |
| Business Address (Street, Apartment Number) | | | City | State | Zipcode | Phone | |

copy

17 23

GB-

Wednesday January 11, 2023

Florida Judicial Qualifications Commission
P.O. Box 14106
Tallahassee, Florida 32317

LAWRENCE BROVIAK DC # 501873

I am requesting for Justice Chet A Thorpe to be thoroughly investigated by this Commission due to the severe prejudice that he has committed upon me and the same extreme prejudice he has displayed upon other class of criminals. I was illegally sentenced by said judge in addition to being unlawfully incarcerated; in addition to said judge issuing these same kinds of sentences upon criminals of whom are similarly ~~similarly~~ situated. Shows that this judge has had a continuous pattern of issuing vindictive and illegal sentences upon a certain class of criminals. Although he has been reassigned to handle other kinds of criminal cases involving other kinds of criminals; it still does not justify the unlawful detention that I am suffering from the vindictive and illegal sentences that were given to me by said judge herein. Enclosed within ~~to~~ this letter; is a report that was previously written by the Tampa Tribune regarding Judge Chet A Thorpe's ~~similar~~ vindictive and prejudiced behavior towards these certain class of criminals; and how he would illegally sentence them. I still deserve to be given some form of post conviction relief.

10

DECLARATION/CERTIFICATE OF SERVICE

HAVING READ the following information mentioned within this letter; I swear that the following and foregoing is true and correct. c.i.e. FLORIDA STATUTE 92.525(2)(a) and see STATE v. SHEARER, 628 So.2d 1102 (Fla. 1993).

102

And I HEREBY CERTIFY that a true and correct copy hereof has been furnished to The Florida Judicial Qualifications Commission, P.O. Box 14106, Tallahassee, Florida 32317, in accordance with the mailbox rules by entrusting it to the care of the Franklin Correctional Institution Officials to forward through The United States, Postal Services. (i.e. Jan. 11, 2023)

Respectfully Submitted,

Lawrence Broviak

LAWRENCE BROVIAK #501873
Franklin Correctional Institution
1760 Hwy 67 North
Carrabelle, Florida 32322



GREGORY W. COLEMAN
CHAIR

HON. MICHELLE T. MORLEY
VICE-CHAIR

STATE OF FLORIDA
JUDICIAL QUALIFICATIONS COMMISSION
POST OFFICE BOX 14106
TALLAHASSEE, FLORIDA 32317
(850) 488-1581

BLAN L. TEAGLE
EXECUTIVE DIRECTOR

ALEXANDER J. WILLIAMS
GENERAL COUNSEL

May 2, 2023

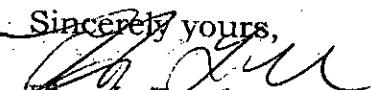
Lawrence Broviak, DC#501873
Franklin Correctional Inst.
1760 Hwy. 67 North
Carabelle, Fl 32322

Re: Docket No. 23-038; Tharpe

Dear Broviak:

The Investigative Panel of the Commission has completed its review of your complaint in the above matter and has determined, at its most recent meeting, that the concerns you have expressed are not allegations involving a breach of the Code of Judicial Conduct warranting further action by the Commission but are matters for review through the normal court process.

The purpose of the Commission is to determine the existence of judicial misconduct and disability as defined by the Constitution and the laws of the State of Florida. If such misconduct or disability is found, the Commission can recommend disciplinary action to the Florida Supreme Court. The Commission has found no basis for further action on your complaint that therefore has been dismissed.

Sincerely yours,

 Blan L. Teagle, J.D.
 Executive Director

BLT/mc

EXHIBIT C

IN THE THIRTEENTH JUDICIAL CIRCUIT COURT
FOR HILLSBOROUGH COUNTY, FLORIDA
Criminal Justice Division

STATE OF FLORIDA,

CASE NO.: 12-CP-001632

v.

LAWRENCE BROVIAK,
Defendant.

DIVISION: I/J

ORDER FOR DEFENDANT TO ACKNOWLEDGE WARNINGS AND ORDER FOR
DEFENDANT TO RESPOND

THIS MATTER is before the Court on Defendant's Motion for Postconviction Relief, filed July 23, 2018, pursuant to Florida Rule of Criminal Procedure 3.350. After reviewing Defendant's motion, the court file, and the record, the Court finds Defendant's sentence(s) was/were the result of a revocation hearing. Consequently, the Court finds it necessary to warn Defendant of the following:

State is not obligated to renew any previously made plea offers
or extend any new offers

-If Defendant is successful in having his/her conviction(s) set aside, the State is not obligated to renew any previously made plea offers or extend any new offers to Defendant.

Possible Imposition of Harsher Sentence(s)

-If Defendant is successful in having his/her conviction(s) set aside, absent a new plea agreement, upon conviction of the offense(s) charged in the information or any lesser included offenses, he/she will once again be exposed to all applicable legal sentence(s) and applicable legal enhancements he/she previously qualified for, including, but not limited to the following:

Standard Statutory Maximum; Section 775.082, Florida
Statutes:

-for a life felony, by a term of imprisonment for life.

-for a felony of the first degree, by a term of imprisonment not exceeding 30 years or, when specifically provided by statute, by imprisonment for a term of years not exceeding life imprisonment.

NAME (LAST, FIRST, MI)

DOCKET #

Page 1 Subtotal:

V. Legal Status violation = 4 Points

Escape Fleeing Failure to appear Supersedeas bond Incarceration Pretrial intervention or diversion program
 Court imposed or post prison release community supervision resulting in a conviction

V. _____

VI. Community Sanction violation before the court for sentencing

Probation Community Control Pretrial Intervention or diversion

VI. _____

6 points for any violation other than new felony conviction x _____ each successive violation OR
 New felony conviction = 12 points x _____ each successive violation if new offense results in conviction before or at same time as sentence for violation of probation OR
 12 points x _____ each successive violation for a violent felony offender of special concern when the violation is not based solely on failure to pay costs, fines, or restitution OR
 New felony conviction = 24 points x _____ each successive violation for a violent felony offender of special concern if new offense results in a conviction before or at the same time for violation of probation

VII. Firearm/Semi-Automatic or Machine Gun = 18 or 25 Points

VII. _____

VIII. Prior Serious Felony - 30 Points

VIII. _____

Subtotal Sentence Points _____

IX. Enhancements (only if the primary offense qualifies for enhancement)

Law Enf. Protect.

Drug Traficker

Motor Vehicle Theft

Criminal Gang Offense

Domestic Violence in the Presence of Related Child
(offenses committed on or after 3/12/07)

____ x 1.5 ____ x 2.0 ____ x 2.5

____ x 1.5

____ x 1.5

____ x 1.5

____ x 1.5

Enhanced Subtotal Sentence Points

TOTAL SENTENCE POINTS

SENTENCE COMPUTATION

If total sentence points are less than or equal to 44, the lowest permissible sentence is any non-state prison sanction. If the total sentence points are 22 points or less, see Section 775.082(10), Florida Statutes, to determine if the court must sentence the offender to a non-state prison sanction.

If total sentence points are greater than 44:

minus 28 = _____

total sentence points

lowest permissible prison sentence in months

If total sentence points are 60 points or less and court makes findings pursuant to both Florida Statute 948.20 and 397.334(3), the court may place the defendant into a treatment-based drug court program.

The maximum sentence is up to the statutory maximum for the primary and any additional offenses as provided in s. 775.082, F.S., unless the lowest permissible sentence under the Code exceeds the statutory maximum. Such sentences may be imposed concurrently or consecutively. If total sentence points are greater than or equal to 363, a life sentence may be imposed.

maximum sentence in years _____

TOTAL SENTENCE IMPOSED

Years _____

Months _____

Days _____

State Prison Life
 County Jail Time Served
 Community Control
 Probation Modified

Please check if sentenced as habitual offender, habitual violent offender, violent career criminal, prison releasee reoffender, or a mandatory minimum applies.

Mitigated Departure Plea Bargain Prison Diversion Program

Other Reason _____

JUDGE'S SIGNATURE

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
EN LA CORTE DEL CIRCUITO DEL DECIMOTERCER CIRCUITO JUDICIAL
HILLSBOROUGH COUNTY, FLORIDA
ESTADO DE FLORIDA, EN Y PARA EL CONDADO DE HILLSBOROUGH
CRIMINAL JUSTICE DIVISION
DIVISIÓN DE JUSTICIA PENAL

STATE OF FLORIDA
ESTADO DE FLORIDA

FILED

CASE NO: 12 CF/632
NO. DE CASO:

MAY 31 2012

DIVISION:
SECCIÓN: 14

Lawrence Brovian, CLERK OF CIRCUIT COURT

UNIFORM PLEA, ACKNOWLEDGMENT AND WAIVER OF RIGHTS FORM
FORMULARIO UNIFORME DE DECLARACIÓN, RECONOCIMIENTO Y RENUNCIA DE DERECHOS

CHARGE(S)
CARGO(S)

MANDATORY MINIMUM
PENA MÍNIMA OBLIGATORIA

MAXIMUM PENALTY
PENA MÁXIMA

1-10) Child Abuse F3^o
827.03(1)(c)

5 years FSP

SAC to Nolle Prossessor Counts 11-42
For sections 1 and 2, check either "a" or "b." Para la sección 1 y 2, marque "a" o "b."

1(a) I am pleading guilty, and acknowledge (my guilt) (I feel it is in my best interests to do so).
Me declaro culpable y reconozco (mi culpabilidad) (pienso que es lo que más me conviene hacer).
OR / O

1(b) I am pleading *nolo contendere*, and acknowledge I feel it is in my best interest to do so.
Me declaro no me opongo, y reconozco que es lo que más me conviene hacer.

2(a) I am pleading open to the Court and understand there is no agreement as to what sentence I will receive, and the Court can sentence me within its discretion.
Me declaro abiertamente ante el juez y entiendo que no existe ningún acuerdo relacionado con la sentencia que voy a recibir y que el juez puede sentenciarme a su discreción.
OR / O

2(b) I am pleading pursuant to a plea agreement and the terms of that agreement are as follows:
Me declaro conforme a un acuerdo de declaración y los términos son los siguientes:

FSP _____ Psychological evaluation and treatment if necessary _____
Prisión Estatal de Florida Evaluación psicológica y tratamiento (de ser necesario)

County Jail _____
Cárcel del Condado

Probation
Probatoria

8 years

Specified Residency _____
Residencia Especificada

Consecutive to sentence in 11 CF/1880
Plea Letter incorporated by reference
Page 1 of 4

IN THE CIRCUIT COURT IN AND FOR
HILLSBOROUGH COUNTY, STATE OF FLORIDA
CRIMINAL DIVISION(FELONY)

STATE OF FLORIDA

VS.

LAWRENCE ELIOT BROVIAK

AKA(S): LARRY BROVIAK, LAWRENCE E BROVIAK, LAWRENCE ELIOT BROVIAK,
LARRY

CASE NO : 12-CF-001632
DIVISION : H

COUNT
42

CHARGE(S):
POSS OF CHILD PORNOGRAPHY 10 OR MORE IMAGES AN

JUDGMENT AND SENTENCE

FILED

MAY 31 2012

CLERK OF CIRCUIT COURT

The above-named Defendant being now before the Court:

In proper person
 With Counsel ROBERT MacAvish
 Counsel _____ appearing on Defendant's behalf for the above-mentioned charge
and the Court being satisfied that the said plea, if applicable, was entered voluntarily and with understanding of the consequences,
 SAA JENNIFER JOHNSON

Having:

Entered a plea of Guilty Entered a plea of Nolo Contendere
 Entered a plea of Guilty to the lesser charge on count 1 thru 10 - Child Abuse
 Been tried and found guilty _____
 Admitted to VOP/VOCC _____ Found In Violation _____

The Court adjudicates the defendant guilty of said charge
 The Court withholds adjudication of guilt

It is the order of the Court that the defendant:

Pays all mandatory court costs assessed pursuant to Court Order
 Be placed on Probation for a period of 5 days / months / years for count(s) 1 with conditions:
 Be placed in Community Control I / Community Control II for count(s) _____
 Community Control (I / II) _____ days / months / years for count(s) _____
 Followed by Probation of _____ days / months / years for count(s) _____
 Incarceration Followed by Probation Community Control I / II
 Probation Revoked Community Control revoked

Other counts sentenced as follows: CTS 2 thru 10 - 3 yrs probation

Dismissed _____ Time Served _____ Nolle Prossse _____ Not Guilty _____ Acquitted _____

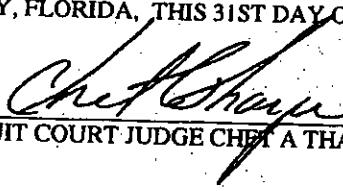
Committed to the custody of the Sheriff of Hillsborough County, Florida for incarceration in the:
 County Jail _____ SRCJ _____ SRCJO _____ with credit for time served _____

as well as the standard conditions of probation specified by a separate Order entered by Department of Corrections, if any.

Concurrent with _____ Consecutive to CTS 2 thru 10 consecutive to CT 1

If you are a "qualifying offender" under section 943.325, Florida Statutes, you are required to submit a DNA sample in a manner consistent with Florida law.

DONE AND ORDERED IN HILLSBOROUGH COUNTY, FLORIDA, THIS 31ST DAY OF MAY 2012.


CIRCUIT COURT JUDGE CHEY A THARPE

AGENCY REPORT # 13-038733

AGENCY NAME HCSO 1815925

State facts to establish probable cause that a crime was committed by the defendant or that the child is dependent. On 04/08/13, At approximately 2050 hours, the defendant was arrested for Battery at 1702 6th Street South East Ruskin, Florida within Hillsborough County violating his probation. The defendant is on Felony probation for child [REDACTED] Neglect.

Judgement requested against defendant for agency investigative cost per Florida Statute 938.27: \$

OFFICER _____
I.D. # _____ Dist. & Squad _____
(Please Print The Above Information)POLICE REPORT WRITTEN: Yes No
OFFICER C.Copeland I.D. # 244823 Dist. & Squad D4/403

SWORN TO AND SUBSCRIBED BEFORE ME THIS

29th DAY OF April, 2013

NAME/Title of Person Authorized to Administer Oath.

I SWEAR THAT THE ABOVE STATEMENTS ARE CORRECT TO THE BEST OF MY KNOWLEDGE. FOR NOTICES TO APPEAR, I ALSO CERTIFY THAT A COMPLETE LIST OF WITNESSES AND EVIDENCE KNOWN TO ME IS ATTACHED.

AFFIANT, Signature C.Copeland (cm)

AFFIANT, Print/Type Name C.Copeland #244823 (cm)

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CLERK OF COURT

SAO FORM-425, 10/03

WITNESS STATUS: V-Victim C-Complainant W-All Other Witnesses Check If Witness Was Sworn

1815925

| STATUS | | First | Middle | Race | Sex | Date of Birth |
|--|--|-------|--------|---------|-------|---------------|
| <input checked="" type="checkbox"/> Florida Department of Correction | | | | | | |
| Home Address (Street, Apartment Number) | | City | State | Zipcode | Phone | |
| Business Address (Street, Apartment Number) | | City | State | Zipcode | Phone | |
| <input type="checkbox"/> STATUS Last | | First | Middle | Race | Sex | Date of Birth |
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GREGORY W. COLEMAN
CHAIR

HON. MICHELLE T. MORLEY
VICE-CHAIR

STATE OF FLORIDA
JUDICIAL QUALIFICATIONS COMMISSION
POST OFFICE BOX 14106
TALLAHASSEE, FLORIDA 32317
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BLAN L. TEAGLE
EXECUTIVE DIRECTOR

ALEXANDER J. WILLIAMS
GENERAL COUNSEL

May 2, 2023

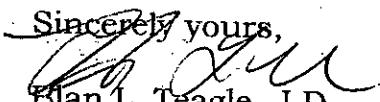
Lawrence Broviak, DC#501873
Franklin Correctional Inst.
1760 Hwy. 67 North
Carrabelle, Fl 32322

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Sincerely yours,

 Blan L. Teagle, J.D.
 Executive Director

BLT/mc

IN THE COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA

STATE OF FLORIDA,
Plaintiff,

V.

Case No.: 12-CF-001632

LAWRENCE BROVIAK,
Defendant,

MOTION TO CORRECT ILLEGAL SENTENCE

COMES NOW the defendant, Lawrence Broviak, and moves this court pursuant to Fla. R. Crim. P. Rule 3.800(a) to correct the illegal sentence in this case: as grounds states the following facts apparent on the face of the record and law:

JURISDICTION

Our Court has reasoned that "A sentence that patently fails to comport with statutory or constitutional limitations is by definition 'illegal'." *State v. Mancino*, 714 So. 2d 429, 433 (Fla. 1998). An illegal sentence can be corrected at any time pursuant to Fla. R. Crim. P. Rule 3.800(a). Additionally, *res judicata* does not apply to a motion filed pursuant to Fla. R. Crim. P. Rule 3.800(a) and collateral estoppel does not overcome a showing of a manifest injustice. See *State v. McBride*, 848 So. 2d 287 (Fla. 2003).

IN THE
THIRTEENTH JUDICIAL CIRCUIT COURT
HILLSBOROUGH COUNTY, FLORIDA

PROVIDED TO
JEFFERSON C.I.

JUL 19 2018

4B
FOR MAILING
RECEIVED BY

STATE OF FLORIDA,
Plaintiff,

v.

Case No.: 12-CF-001632

LAWRENCE BROVIAK,
Defendant,

**MEMORANDUM OF LAW AND FACTS IN SUPPORT OF
MOTION FOR POST CONVICTION RELIEF**

A. STATEMENT OF THE CASE AND STATEMENT OF FACTS.

1. Defendant was charged with 42 counts of possession of child pornography. On May 31, 2012, Defendant pleaded guilty pursuant to a negotiated plea agreement to ten counts of child abuse. On the same day, the trial court sentenced the Defendant to five years probation on count one, and three years probation on counts two through ten to run consecutively to count one.

On May 27, 2014, the trial court revoked Defendant's community control and sentenced him to 165.3 months prison, with all counts to run concurrently.

Defendant appealed the order revoking his community control and his revocation sentence. On November 4, 2015, the appellate court affirmed his revocation and sentence, but remanded with instructions to strike the reference to a violation of condition number 16 in the order revoking community control. The mandate was issued December 4, 2015. The Defendant was granted an extension time to file his 3.850 on May 21, 2018.

CIRCUIT COURT
CLERK'S OFFICE
2018 JUL 23 AM 11:26
COURTS

dubious absent any other evidence.

As the trier of fact in a community control revocation proceeding, it is within the domain of the trial court to determine the credibility of a witness' testimony and evaluate conflicts in the evidence. In this case, the court evaluated and weighed the testimony, resolved the contradictions adversely to Appellant, and found Ms. Gean-Louis to be a more credible witness. (V 2 T 268). Competent substantial evidence supports the trial court's finding that Appellant willfully and substantially violated his probation.

* The question then turns to whether the trial court abused its discretion in revoking probation. Appellant has repeatedly violated his probation and community control by engaging in violent behavior, using illicit drugs, and disregarding his curfew. The trial court was at liberty to impose any sentence it might initially have imposed before placing Appellant on probation then community control. Hill v. State, 927 So. 2d 1047 (Fla. 2d DCA 2006). In light of the circumstances the trial court made a reasonable decision to revoke Appellant's community control and sentence him to the bottom of the sentencing guidelines which is one hundred sixty five months in prison. (V 2 T 268).

presented in Appellant's case. In McCray there was no conflict between the testimony of the state's witness and the defendant's witnesses. At Appellant's revocation hearing conflicts in the testimony were present.

First, conflict exists in the evidence pertaining to how Appellant contacted Ms. Gean-Louis. Appellant says he left a message for the probation officer while Ms. Gean-Louis informed the court that was not true. Also conflict exists in the evidence as to how Appellant eventually arrived at his residence. Appellant gave testimony that he had to negotiate an unpredictable bus system to eventually arrive at his residence. Ms. Gean-Louis informed the court that was not true. Appellant advised her that he was able to secure a ride home after he missed the bus.

Additionally, Appellant testified his phone became damaged at some prior date so he was incapable of calling the emergency number. (V2 T 263). Appellant did not disclose this information to his probation officer previously which is evidenced by Ms. Gean-Louis' testimony that she called him earlier that same day on the cell phone number he provided. Appellant did not mention the loss of his cell phone until he needed an excuse for disobeying the mandate that he call his probation officer if he was going to be late. Based upon conflicts in the testimony it was reasonable for the court to find Appellant's assertions