

APPENDIX A

SUPREME COURT OF FLORIDA ORDER DENYING REVIEW

MOTION FOR REHEARING, REHEARING EN BANC, CERTIFICATION, AND WRITTEN OPINION
TO THE 6TH DCA AND NOTICE OF APPEAL

DATE: 10/22/2024, 01/03/2025

PAGES: 1-7

Supreme Court of Florida

FRIDAY, JANUARY 3, 2025

Harry Lee Goldsboro, II,
Petitioner(s)

v.

State of Florida,
Respondent(s)

SC2024-1714

Lower Tribunal No(s).:

6D2023-2876;

482018CF004010000AOX

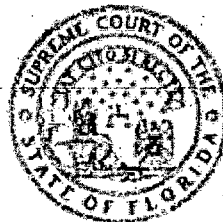
Petitioner's Notice to Invoke Discretionary Jurisdiction, seeking review of the order or opinion issued by the 6th District Court of Appeal on October 15, 2024, is hereby dismissed. This Court lacks jurisdiction to review an unelaborated decision from a district court of appeal that is issued without opinion or explanation or that merely cites to an authority that is not a case pending review in, or reversed or quashed by, this Court. See *Wheeler v. State*, 296 So. 3d 895 (Fla. 2020); *Wells v. State*, 132 So. 3d 1110 (Fla. 2014); *Jackson v. State*, 926 So. 2d 1262 (Fla. 2006); *Gandy v. State*, 846 So. 2d 1141 (Fla. 2003); *Stallworth v. Moore*, 827 So. 2d 974 (Fla. 2002); *Harrison v. Hyster Co.*, 515 So. 2d 1279 (Fla. 1987); *Dodi Publ'g Co. v. Editorial Am. S.A.*, 385 So. 2d 1369 (Fla. 1980); *Jenkins v. State*, 385 So. 2d 1356 (Fla. 1980).

No motion for rehearing or reinstatement will be entertained by the Court.

A True Copy
Test:

SC2024-1714 1/3/2025

John A. Tomasino
Clerk, Supreme Court



CASE NO.: SC2024-1714

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TD

Served:

CRIMINAL APPEALS DAB ATTORNEY GENERAL
HON. LUIS FERNANDO CALDERON
6DCA CLERK
ORANGE CLERK
HARRY LEE GOLDSBORO, II

HARRY LEE GOLOSBORO II,
APPELLANT

SIXTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA

CASE NO.: 6D23-2876
LOWER TRIBUNAL No.:
2018-CF-004010-A-0
DATE: 22 OCTOBER 2024

V.
STATE OF FLORIDA,
APPELLEE

MOTION FOR REHEARING, REHEARING EN BANC,

CERTIFICATION AND WRITTEN OPINION

COMES NOW, on this 22nd day of October 2024, the Appellant, HARRY LEE GOLOSBORO II, pro se, submits this timely Motion For Rehearing, Rehearing En Banc, Certification, and Written Opinion in case no. 6D23-2876 From the Sixth District Court of Appeals Per Curiam Affirmance of the Lower Tribunal's Order Denying the Appellant's 3,850 Belated Plea Withdrawal Filed in the 6th DCA on June 21st, 2023. However, the summary record on appeal was not provided by the lower tribunal until October 7th, 2024. During the same week from October 7th, 2024 until October 11th, 2024, Hurricane Milton impacted Florida causing court closures for most of the week, then there was a three-day holiday weekend for Columbus Day from October 12th - 14th. Yet, through all of these disruptions, the 6th DCA managed to review over 100 pages of documents, including the Appellant's 3,850 motion and his initial brief, and was able to submit an order per curiam affirming the lower court's ruling, without an opinion, by October 15th, 2024. In this situation, it is hard to believe that the court fully reviewed the Appellant's case, arguments, and claims and ruled on the merits all within a week of receiving the record and during a major hurricane with court closures and a holiday weekend. The Appellant is seeking a review by the Full court to ensure that a miscarriage of justice does not occur by the court's oversight in applying a reasonable amount of time to consider the Appellant's claims based on the merits.

MOTION FOR REHEARING AND REHEARING EN BANC

The Appellant asserts that the court overlooked the following issues in its order:

1. A manifest injustice occurred when the court and counsel failed to advise the defendant that by signing the plea he would have to register as a convicted felon, despite the withholding adjudication clause. This
2. Failure violates due process under the 5th and 14th Amendments, and the right to effective counsel under the 6th Amendment.
2. A manifest injustice occurred when the court and counsel failed to advise the defendant that by signing the plea, he would be subject to civil commitment because his charge qualified as a sexually motivated offense, despite counsel's affirmative misadvice that he would not be subject to civil commitment. For its part, the court merely recites the plea colloquy that explains when a defendant may be subject to civil commitment proceedings, but falls short of explaining and defining "sexually motivated offense" under FL ST 399.912(h). This Failure violates due process under the 5th and 14th Amendments and effective assistance of counsel under the 6th Amendment.

3. A manifest injustice occurred when counsel provided affirmative misadvice and advised the defendant to accept a plea to a charge, the facts of which were unsupported by the information in violation of FL ST 924.051 prejudicial error, 924.053 Fundamental error, and renders the plea involuntary. This failure violates due process under the 5th and 14th Amendments and effective assistance of counsel under the 6th Amendment.
4. Counsel was ineffective for withdrawing representation only 5 days after submitting the plea in violation of FL R. Crim. P. Rule # 3.170(L) Motion to Withdraw Plea After Sentencing and FL R. App. P. 9.140(d)(1) Withdrawal of Defense Counsel After Judgment. This failure violates due process under the 5th and 14th Amendments and effective assistance of counsel under the 6th Amendment.
5. A manifest injustice occurred when the court dismissed the defendant's 3,850 post-conviction motion as untimely because the discovery of new evidence extended the time period for filing the 3,850 motion and the court failed to treat the motion as timely filed. This failure violates due process under the 5th and 14th Amendments and effective assistance of counsel under the 6th Amendment.
6. A manifest injustice occurred because the defendant was unable to timely withdraw his plea or file a 3,850 motion within the two-year time limit due to circumstances beyond his control through the court's and counsel's failures and affirmative misadvice and lack of legal representation and assistance. This failure violates due process under the 5th and 14th Amendments and effective assistance of counsel under the 6th Amendment.

The Appellant is requesting a rehearing en banc as the Appellant's first three claims involve affirmative misadvice by counsel, which rendered the plea involuntary and led to a manifest injustice. Counsel's affirmative misadvice had serious long-term collateral consequences that resulted in the Appellant losing his job and security clearance, a five-year prison sentence, and indefinite civil commitment, which counsel failed to advise the Appellant at any point, even after the Appellant asked about collateral consequences. In addition, such considerations are necessary to maintain uniformity in the district court's decisions in *Johnson v. State*, 971 So.2d 212 Fla. App. 2008, *Murphy v. State*, 820 So.2d 375, 376 Fla. 4th DCA 2002, *Gomez v. State*, 28 So.3d 114 Fla. App. 2010, *State v. Heronex*, 689 So.2d 233, 238 Fla. 1996, *Graham v. State*, 779 So.2d 604 Fla. 2d DCA 2007, *Ghanavati v. State*, 820 So.2d 289 Fla. App. 2000, *Watrous v. State*, 793 So.2d 6 Fla. App. 2001, *Muse v. State*, 23 So.3d 763 Fla. App. 2009, *Eiseman v. State*, 440 So.2d 770 Fla. App.

1983, Dydek v. State, 400 So.2d 1255 Fla. 2d 1981, Vaugh v. State, 388 So.2d 253 Fla. 2d DCA 1980, Williams v. State, 316 So.2d 649 Fla. 1975, Yarish v. State, 420 So.2d 649 Fla. 2d DCA 1982, and Nicol v. State, 892 So.2d 1169, 1171 Fla. 5th DCA 2005. As a result of these rulings, I express a belief, based on a reasoned and studied judgment, that the case or issue is of exceptional importance and I express a belief, based on reasoned and studied judgment, that the panel decision is contrary to the decisions of the courts in the 3rd, 4th, and 5th districts and that consideration by the Full Court is necessary to maintain uniformity of decisions in this court.

MOTION FOR CERTIFICATION

The per curiam affirmance of the lower tribunal's order denying all claims submitted in the Appellant's 3.850 post conviction motion, which was affirmed without an opinion, fails to address the voluntariness of the plea based on the court's failure to advise the Appellant of the collateral consequences, and counsel's affirmative misadvice. The court's affirmance without addressing these issues conflicts with the district court's opinions in: Johnson v. State, 971 So.2d 212 Fla. App. 2008, Murphy v. State, 820 So.2d 375, 876 Fla. 4th DCA 2002, Gomez v. State, 28 So.3d 114 Fla. App. 2010, State v. Leroux, 689 So.2d 233, 238 Fla. 1996, Graham v. State, 779 So.2d 604 Fla. 2d DCA 2007, Chanevati v. State, 820 So.2d 989 Fla. App. 2002, Watrous v. State, 793 So.2d 6 Fla. App. 2001, Muse v. State, 23 So.3d 763 Fla. App. 2009, Eiseman v. State, 440 So.2d 770 Fla. App. 1983, Dydek v. State, 400 So.2d 1255 Fla. 2d 1981, Vaugh v. State, 388 So.2d 253 Fla. 2d DCA 1980, Williams v. State, 316 So.2d 649 Fla. 1975, Yarish v. State, 420 So.2d 649 Fla. 2d DCA 1982, and Nicol v. State, 892 So.2d 1169, 1171 Fla. 5th DCA 2005.

The Appellant humbly and respectfully requests that this Honorable Court of Appeals certifies the following questions of great public importance:

1. Does a manifest injustice occur when the court fails to explain potential collateral consequences of a plea, which renders the plea involuntary?
2. Does a manifest injustice occur when counsel provides affirmative misadvice regarding the potential collateral consequences of a plea, which renders the plea involuntary?
3. Is a belated plea withdrawal motion timely filed when an appellant files the motion within two-years of discovering of new evidence predicated by affirmative misadvice that was unknown at the time of signing the plea?

REQUEST FOR A WRITTEN OPINION

The Petitioner believes that a written opinion would provide: (i) a legitimate basis for supreme court review; (ii) an explanation for an apparent deviation from prior precedent; and (iii) guidance to the parties and lower tribunal when: a. the issue decided is also present in other cases pending before the court or another DCA (Goldsboro v. State, 6D23-2882 and 6D24-0751); b. the issue decided is expected to recur in future cases; and c. there are conflicting decisions on the issue from lower tribunals.

WHEREFORE, the Appellants pray that this Honorable Court of Appeals grants the rehearing, a rehearing en banc, certification of the questions of great public importance, and provides a written opinion to establish a legitimate basis for Florida Supreme Court review.

HARRY LEE GOLDSBORO II
APPELLANT/PETITIONER

UNITED STATES SUPREME COURT

6TH DCA CASE NO.:

V.

6023-2876

STATE OF FLORIDA

L.T. NO.: 2018-CF-004010-A-0

APPELLEE/RESPONDENT

DATE: 22 OCT 2024

NOTICE OF APPEAL

COMES NOW, on this 22nd day of October, 2024, the Appellant, HARRY LEE GOLDSBORO II, pro se, submits this Notice of Appeal from the 6th DCA's order denying the Appellant's 3.850 motion for post conviction for Delayed Plea Withdrawal on October 15th, 2024. On July 31st, 2024, the 6th DCA ordered the 9th Judicial Circuit Clerk of Court to provide the correct record for case number 2018-CF-004010-A-0 that was used to initiate 6th DCA case number 6023-2876. On October 7th, 2024, the Appellant received a letter from the 6th DCA indicating that the Court had received the summary record on appeal for case number 6023-2876; however, Hurricane Milton impacted Florida from October 7th, 2024 until October 11th, 2024 with closures of the courts due to a state of emergency. Despite the hurricane and court closures, the 6th DCA managed to convene and issue an order per curiam affirming the lower tribunal's ruling, without an opinion, on October 15th, 2024. Following the hurricane's aftermath and the Columbus Day holiday on Monday, October 14th, 2024. The court had just received the summary record, which consisted of over 100 pages of documents, along with the Appellant's 3.850 motion and his Initial Brief, and somehow through the hurricane's destruction and disruption, managed to find time to read through all of those documents and issue an order denying the Appellant's claims, presumably based on the merits, within a 12 hour period of availability. It is blatantly obvious that the court did not even read the Appellant's motions and merely per curiam affirmed the lower court's ruling without taking the time to consider the Appellant's claims. This is a miscarriage of justice, and the Appellant will be seeking a rehearing en banc; however, in the meantime, the Appellant will also submit a petition for a writ of certiorari from the U.S. Supreme Court as the district courts continue to refuse to execute their duties and responsibilities as justices for the district court of appeals.

The Appellant must appeal to the U.S. Supreme Court because the Florida Supreme Court has no jurisdiction to review an unelaborated decision from a district court of appeal (see Ostrander v. State, SC2024-0670 Fla. May 07, 2024; Wheeler v. State, 296 So.3d 815 Fla. 2020; Wells v. State, 132 So.3d 1110 Fla. 2014; Podi Publishing Co. v. Editorial America, 5 A. 385 So.2d 1369 Fla. 1180; Jollie v. State, 405 So.2d 418 Fla. 1981). The Appellant files this Notice of Appeal to the U.S. Supreme Court to ensure that he is following proper procedures and exhausting all of his state remedies as he prepares to file a petition for certiorari to the Supreme Court and seek habeas corpus relief in the Federal courts.

HARRY LEE GOLDSBORO II

SUPREME COURT OF FLORIDA

CASE NO.:

PETITIONER

SC2024-1714

v.

L.T. NO.:

STATE OF FLORIDA,

602023-2876

RESPONDENT

482018CF00401000JAOX

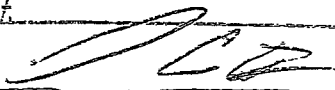
STATUS OF MOTION FOR REHEARING

DATE: 17 DECEMBER 2024

COMES NOW on this 17th day of DECEMBER 2024, the PETITIONER, HARRY LEE GOLDSBORO II, please, submits this timely Status of Motion For Rehearing as ordered by the Supreme Court of Florida on December 3rd, 2024. The Supreme Court of Florida ordered the Petitioner to advise the Court every 30 days regarding the status of the motion for rehearing that is pending in the 6th District Court of Appeals. On December 12th, 2024, the 6th DCA issued its order denying the Petitioner's motion for rehearing, certification, written opinion and rehearing en banc and the Petitioner received the order on December 17th, 2024. The Petitioner is filing this notice to the Supreme Court of Florida to timely notify the Court of the status of the Petitioner's case at the 6th DCA has been resolved.

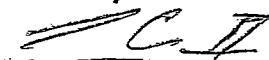
OATH

Under penalties of perjury I declare that I have read the foregoing motion or had it read to me, that I understand the motion's contents, and that all of the facts alleged in the motion are true and correct.


HARRY LEE COLOSBOROS II, Pro Se
DEFENDANT, JAZZ #4838407

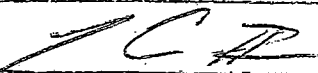
CERTIFICATIONS AND ACKNOWLEDGEMENTS

I certify that the motion is filed in good faith, that I have a reasonable belief that the motion is timely filed, has potential merit, and does not duplicate previous motions that have been disposed of by the court. I certify that I understand English and have read the foregoing motion or had the motion read to me. I understand that I am subject to judicial or administrative sanctions, including but not limited to forfeiture of gain time, if this motion is found to be frivolous, malicious, made in bad faith, or with reckless disregard for the truth, or an abuse of the legal process.


HARRY LEE COLOSBOROS II, Pro Se
DEFENDANT, JAZZ #4838407

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Status of Motion For Rehearing was delivered by mail to: the Florida Supreme Court Office of the Clerk 500 South Duval Street Tallahassee FL 32399-1927 32301 and the State Attorney's Office County Courthouse 301 South Monroe Street #475 Tallahassee FL 32301 on this 17th day of DECEMBER 2024.


HARRY LEE COLOSBOROS II, Pro Se
DEFENDANT, JAZZ #4838407
BREVARD COUNTY JAZZ COMPLEX
ATTN: LEGAL MAIL
860 CAMO ROAD
COCOA, FL 32927
DATE: 17 DECEMBER 2024

**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SIXTH DISTRICT**

December 12, 2024

HARRY LEE GOLDSBORO II,
APPELLANT(S),
V.

CASE NO.: 6D2023-2876
L.T. NO.: 2018-CF-004010-A-O

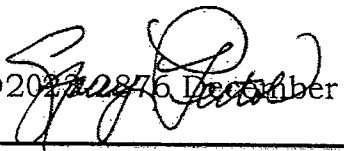
STATE OF FLORIDA,
APPELLEE(S).

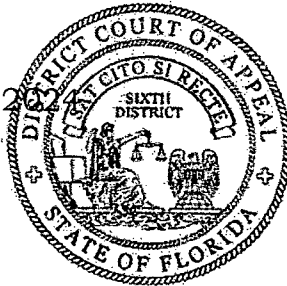
BY ORDER OF THE COURT:

Appellant's motion for rehearing, certification, written opinion, and rehearing en banc is denied.

I hereby certify that the foregoing is a true copy of the original court order.

6D2023-2876 December 12, 2024


Stacey Pectol
Clerk

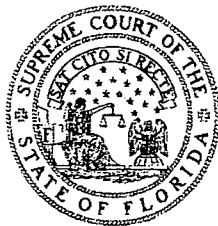


PANEL: TRAVER, C.J., STARGEL and WHITE, JJ. (acting on panel-directed motion(s))
EN BANC COURT (acting on en banc motion)

cc:

DAYTONA ATTORNEY GENERAL
DAYTONA OFFICE OF THE
ATTORNEY GENERAL

HARRY LEE GOLDSBORO II
TIFFANY RUSSELL, CLERK



Supreme Court of Florida

Office of the Clerk
500 South Duval Street
Tallahassee, Florida 32399-1927

JOHN A. TOMASINO
CLERK
MARK CLAYTON
CHIEF DEPUTY CLERK
JULIA BREEDING
STAFF ATTORNEY

PHONE NUMBER: (850) 488-0125
www.floridasupremecourt.org

ACKNOWLEDGMENT OF NEW CASE

Tuesday, December 3, 2024

RE: Harry Lee Goldsboro, II,
Petitioner(s)

v.

State of Florida,
Respondent(s)

Case Number: SC2024-1714
Lower Tribunal Case Number(s): 6D2023-2876;
482018CF004010000AOX

Case Type: Discretionary Review - Notice to Invoke - Direct Conflict
of Decisions

The Florida Supreme Court has received the Notice to Invoke
Discretionary Jurisdiction reflecting a filing date of December 3,
2024, seeking review of opinion dated October 15, 2024.

Please be sure to register for your Appellate Case Information
System (ACIS) account. For more information on registering please
visit <https://www.flcourts.gov/ACIS>.

TW

cc:

41-4

CRIMINAL APPEALS DAB ATTORNEY GENERAL

CASE NO.: SC2024-1714

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HON. LUIS FERNANDO CALDERON
6DCA CLERK
ORANGE CLERK
HARRY LEE GOLDSBORO, II

Supreme Court of Florida

TUESDAY, DECEMBER 3, 2024

Harry Lee Goldsboro, II,
Petitioner(s)

v.

State of Florida,
Respondent(s)

SC2024-1714

Lower Tribunal No(s).:

6D2023-2876;

482018CF004010000AOX

The proceedings in the above cause are hereby stayed in this Court pending disposition of the Motion for Rehearing in the Sixth District Court of Appeal.

Petitioner is to advise this Court thirty days from the date of this order, and every thirty days thereafter, of the status of the motion for rehearing which is now pending in said district court.

A True Copy

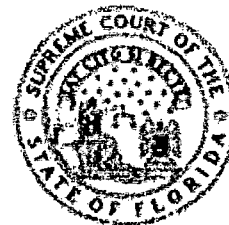
Test:

SC2024-1714 12/3/2024

John A. Tomasino

Clerk, Supreme Court

SC2024-1714 12/3/2024



TW

Served:

CRIMINAL APPEALS DAB ATTORNEY GENERAL
HON. LUIS FERNANDO CALDERON

CASE NO.: SC2024-1714

Page Two

6DCA CLERK

ORANGE CLERK

HARRY LEE GOLDSBORO, II

APPENDIX B

6TH DCA ORDER PER CURIAM AFFIRMING LOWER TRIBUNAL'S RULING

DATE: 10/15/2024

PAGES: 8.

**SIXTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA**

Case No. 6D2023-2876
Lower Tribunal No. 2018-CF-004010-A-O

HARRY LEE GOLDSBORO, II,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

Appeal from the Circuit Court for Orange County.
Luis F. Calderon, Judge.

October 15, 2024

PER CURIAM.

AFFIRMED.

TRAVER, C.J., and STARGEL and WHITE, JJ., concur.

Harry Lee Goldsboro, II, Cocoa, pro se.

No Appearance for Appellee.

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING
AND DISPOSITION THEREOF IF TIMELY FILED

APPENDIX C

ORDER TO TRANSMIT RECORD IN CASE 6023-2876 AND RECORD COMPLETE IN
CASE NO. 6023-2876

DATE: 7/3/2024 AND 10/7/2024

PAGES: 9-11

**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SIXTH DISTRICT**

July 3, 2024

HARRY LEE GOLDSBORO, I I
APPELLANT

CASE NO.: 6D2023-2882
L.T. NO.: 2018-CF-004010-A-O

VS

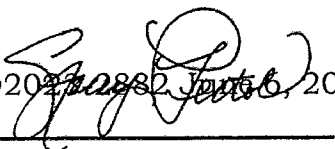
STATE OF FLORIDA
APPELLEE

BY ORDER OF THE COURT:

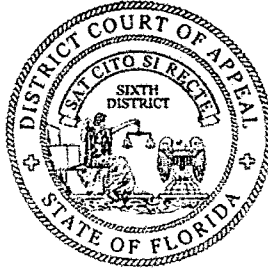
On June 1, 2023, the clerk of the lower tribunal transmitted a notice of appeal that appeals an order rendered May 12, 2023, denying a "motion for belated plea withdrawal," filed on April 26, 2021. That notice was used to initiate case number 6D23-2876, a case in which no record on appeal has yet been transmitted. A review of the record transmitted in case number 6D23-2882 indicates that record is the necessary record pursuant to Florida Rule of Appellate Procedure 9.141(b)(2)(A) for case 6D23-2876. As such, this court sua sponte transfers a copy of the record on appeal transmitted in case 6D23-2882 for consideration in case 6D23-2876. The order to show cause in case 6D23-2876, issued on June 22, 2023, is hereby discharged. Appellant is not obligated to submit a brief. An optional brief, should appellant choose to file one, must be served within thirty days from the date of this order in case number 6D23-2876.

On June 20, 2023, the clerk of the lower tribunal transmitted a notice of appeal that appeals an order rendered on or about May 23, 2023, summarily denying a motion for postconviction relief filed on or about June 11, 2021. That notice was used to initiate case number 2D23-2882. As such, the clerk of the lower tribunal shall transmit the summary record as required by Florida Rule of Appellate Procedure 9.141(b)(2)(A) that relates to the order rendered on or about May 23, 2023, to this court within ten days. The record on appeal currently docketed in 6D23-2882, which as explained in this order relates to the notice of appeal in 6D23-2876, will not be further considered in this court's review of 6D23-2882. Following transmission of the record on appeal in 6D23-2882, appellant is not obligated to submit a brief. An optional brief, should appellant choose to file one, must be served within thirty days from the date of this order in case number 6D23-2882.

I hereby certify that the foregoing is a true copy of the original court order.

6D2024-22882, June 6, 2024


Stacey Pectol
Clerk



cc:

DAYTONA ATTORNEY GENERAL DAYTONA OFFICE OF THE ATTORNEY
GENERAL
HARRY LEE GOLDSBORO II
TIFFANY RUSSELL, CLERK

**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SIXTH DISTRICT**

October 7, 2024

HARRY LEE GOLDSBORO II,
APPELLANT(S)
V.

CASE NO.: 6D2023-2876
L.T. NO.: 2018-CF-004010-A-O

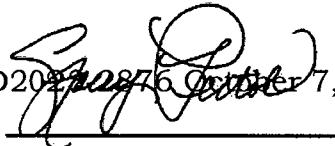
STATE OF FLORIDA,
APPELLEE(S).

BY ORDER OF THE COURT:

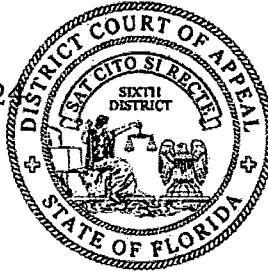
The record in case 6D23-2876 is complete. As such, Appellant's motion for extension of time filed in case 6D23-2876 is granted to the extent that the initial brief, docketed on August 14, 2024, is accepted as timely filed.

I hereby certify that the foregoing is a true copy of the original court order.

6D2023-2876 October 7, 2024



Stacey Pectol
Clerk



cc:

DAYTONA ATTORNEY GENERAL
DAYTONA OFFICE OF THE
ATTORNEY GENERAL

HARRY LEE GOLDSBORO II
TIFFANY RUSSELL, CLERK

APPENDIX D

APPELLANT'S INITIAL BRIEF

DATE: 7/27/2024

PAGES: 12-22

IN THE DISTRICT COURT OF APPEAL OF THE
STATE OF FLORIDA, SIXTH DISTRICT

JULY 27TH, 2024

HARRY LEE GOLDSBORO II,

CASE NO.: 6023-2876

APPELLANT

LOWER TRIBUNAL NO.: 2018-CF-004010-A-0

v.

STATE OF FLORIDA

APPELLEE

APPEAL FROM THE CIRCUIT COURT

OF THE NINTH JUDICIAL CIRCUIT

IN AND FOR ORANGE COUNTY, FLORIDA

APPELLANT'S INITIAL BRIEF

HARRY LEE GOLDSBORO II

DC # B30111 / JAIL # 4838407

BREVARD COUNTY JAIL COMPLEX

ATTN: LEGAL MAIL

860 CAMP ROAD

COCOA, FL 32927

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6. FLST 9.140 p. 1, 5
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9. Baggett v. Wainwright, 229 So.2d 239 Fla. 1970 p. 7
10. Bounds v. Smith, 430 U.S. 817, 821, 97 S. Ct. 1491, 52 L. Ed.2d 72 1977 p. 7
11. Clifford v. State, 513 So.2d 772, 12 Fla. L. Weekly 2404 Fla. App. 1987 p. 7
12. Curtis v. State, 106 So.3d 56 Fla. 2d DCA 2013 p. 1
13. Davis v. State, 154 So.3d 1203 Fla. App. 2015 p. 6
14. Dydek v. State, 400 So.2d 1255 Fla. 2d 1981 p. 5
15. Eisman v. State, 440 So.2d 770 Fla. App. 1983 p. 5
16. Franklin v. State, 31 So.3d 999 Fla. App. 2010 p. 6
17. Gafford v. State, 783 So.2d 1191, 1192 Fla. 1st DCA 2001 p. 1
18. Ghanaesati v. State, 820 So.2d 989 Fla. App. 2002 p. 4
19. Gomez v. State, 28 So.3d 114 Fla. App. 2010 p. 3
20. Graham v. State, 779 So.2d 604 Fla. 2d DCA 2007 p. 4
21. Hughtaling v. State, 620 So.2d 1019 Fla. App. 1996 p. 6
22. Johnson v. State, 971 So.2d 212 Fla. App. 2008 p. 3, 4
23. Murphy v. State, 820 So.2d 375, 376 Fla. 4th DCA 2002 p. 3
24. Muse v. State, 23 So.3d 763 Fla. App. 2009 p. 5
25. Nizal v. State, 892 So.2d 1169, 1171 Fla. 5th DCA 2005 p. 5

26. Smith v. State, 113 So.3d 110, 111 Fla. 5th DCA 2013

p. 1

27. State v. Leroux, 689 So.2d 233, 238 Fla. 1996

p. 4

28. State v. Schafer, 583 So.2d 374, 376 Fla. 4th DCA 1991

p. 1

29. Watrous v. State, 793 So.2d 6 Fla. App. 2001

p. 4

30. Waugh v. State, 388 So.2d 253 Fla. 2d DCA 1980

p. 5

31. Williams v. State, 316 So.2d 649 Fla. 1975

p. 5

32. Yarish v. State, 420 So.2d 649 Fla. 2d DCA 1982

p. 5

STATEMENT OF THE CASE

On July 3, 2024, the Appellant, HARRY LEE CULOSBORO II, received an order from the Sixth District Court of Appeal indicating that on June 1, 2023, the clerk of the lower tribunal transmitted a notice of appeal that appeals an order rendered May 12, 2023, denying a "motion for belated plea withdrawal." Filed on April 26, 2021, and that notice was used to initiate case number 6D23-2876, a case in which no record on appeal has yet been transmitted. A review of the record transmitted in case number 6D23-2882 indicates that record is the necessary record for case 6D23-2876. The order authorized the Appellant to submit an initial brief, and the Appellant has elected to do so.

On July 23, 2024, the Appellant Filed a Request for an Extension to File the instant Initial Brief because he has not yet received the complete record; however, he is still submitting his Initial Brief in case an extension is not granted in order to timely file the brief. The original motion was Filed in the 9th Judicial Circuit (Certificate of service date of April 10th, 2021) and the defendant indicated on the summary introduction that he Filed the motion pursuant to Fla. R. Crim P. Rule # 3.850(L) Belated Appeals and Discretionary Review, Rule # 3.170(L) Motion to Withdraw Plea after Sentencing, Rule # 3.171(C) Responsibilities of Defense Counsel, Rule # 3.172(C)(1) and (7), Rule # 9.140(b)(2)(A)(ii)(c), FL Statutes 924.051, 924.05, and 924.06. In its order summarily denying relief, the lower tribunal stated that "Florida courts have held that the thirty-day limit under 3.170(L), which starts running after rendition of the sentence, is jurisdictional. *Gafford v. State*, 783 So.2d 1191, 1192 Fla. 1st DCA 2001; *Smith v. State*, 113 So.3d 110, 111 Fla. 5th DCA 2013; *Curtis v. State*, 106 So.3d 56 Fla. 2d DCA 2013. Consequently, once this thirty-day limit passes, the trial court loses jurisdiction, and a defendant cannot confer jurisdiction on the trial court by waiver, acquiescence, estoppel or consent. *State v. Schafer*, 583 So.2d 374, 376 Fla. 4th DCA 1991. Because defendant's motion is untimely, he is limited to seeking relief by filing a timely rule 3.850 motion." The lower tribunal Failed to treat the motion as a timely Filed 3.850 since it met all the criteria for a 3.850 motion, referenced that it was Filed under Rule 3.850, and sufficiently pleaded claims that are permissible under a Rule 3.850 motion. The Appellant's Initial Brief will address these and other issues for the Court's review. The Appellant has not received the complete record for the case at bar. The Appellant also asserted in the motion that the discovery of new evidence, incident to the State's filing of charges in case # 2019-MM-000351-E extended the time to file his appeal until August 19, 2021.

SUMMARY OF ARGUMENT IN SUPPORT OF PETITION

The Appellant has not yet received the full indexed record and must therefore rely upon a previously submitted copy and will reference the title of each document and the page number to cite the proper portion and reference in the record.

1. Claim One: Counsel was ineffective for misadvising the defendant and failing to inform him that by signing the plea he would have to register as a convicted felon, despite the withholding adjudication clause. The defendant was in the Air Force and possessed a top secret security clearance and it would be revoked if he registered as a felon. Therefore, the defendant would not have agreed to the plea and would have insisted on proceeding to trial. Good cause to withdraw a plea has been found to exist when the plea is infected by misapprehension, undue persuasion, ignorance, or was entered by one not competent to know its consequences or that it was otherwise involuntary, or that the ends of justice could be served by withdrawal of such plea, (Johnson v. State, 971 So.2d 212 Fla. App. 2009). A defendant's entry of a plea based upon his attorney's mistaken advice can be a valid basis for finding good cause (Id.). In Murphy v. State, 820 So.2d 375, 376 Fla. 4th DCA 2002, the 4th DCA reversed the order summarily denying motion for postconviction relief noting this court has held that affirmative misadvice, regarding even collateral consequences of a plea, may form the basis for withdrawing the plea. (Murphy v. State 2002). (see Gomez v. State, 28 So.3d 114 Fla. App. 2010). Defendant's counsel failed to inform him of all obligations that he would incur as a result of the plea in violation of Fla. R. Crim. P. Rule # 3.172(C)(7) & 3.171(C)(2)(B) and resulted in prejudicial and fundamental error under FL ST 924.051 and 924.053.

[Record Defendant's Belated Motion to Withdraw Plea p. 9-11]

2. Claim Two: Counsel was ineffective for misadvising the defendant and failing to inform him that by signing the plea he would be subject to civil commitment in violation of Fla. R. Crim. P. 3.171(C)(2)(B), 3.172(C)(7), and 3.172(C)(9). Substitute counsel appeared for the defendant and when the judge read the plea colloquy and stated that the plea could subject the defendant to civil commitment as a sexually violent predator, the defendant specifically asked counsel about it and counsel informed him that "You don't have to worry about that. It doesn't apply to you." In April 2023, the State filed a petition for civil commitment based on the conviction for the charge to which the defendant pled. The defendant was unable to raise this claim in 2024 in his original postconviction

motion because the facts upon which the claim is predicated were unknown. Fla. R. Crim. P. Rule # 3.172 (C)(9) Sexually Violent or Sexually Motivated Offense states that "If the defendant pleads guilty or nolo contendere and the offense to which the defendant is pleading is a sexually violent offense or a sexually motivated offense, or if the defendant has been previously convicted of such an offense, the plea may subject the defendant to involuntary civil commitment as a sexually violent predator upon completion of his or her sentence. It shall not be necessary for the trial judge to determine whether the present or prior offenses were sexually motivated, as this admonition shall be given to all defendants in all cases." Since the court is relinquished of this responsibility, it is incumbent upon counsel to review Section 394.925 with his client to see if the present or prior offenses qualify as "sexually motivated" offenses. Counsel failed to do so in this case and misadvised defendant, and the defendant could not have known that his plea could subject him to civil commitment two years after he filed his postconviction motion. In *Johnson v. State*, 2008, the court found that the defendant correctly argued that he should have been allowed to withdraw his plea because his attorney misadvised him about crucial aspects of the Jimmy Ryee Act. Johnson was not advised by either the trial court or the plea form that he could be civilly committed for an indefinite period of time upon the commission of any future non-sexual offense (*Johnson*, 2008). "An offender who enters a plea in reasonable reliance on his attorney's misadvice as to collateral consequences should be allowed to withdraw his plea (*Id.*). If collateral matters are discussed and counsel's advice is measurably deficient, then a plea based on that advice could be involuntary (*State v. Leroux*, 689 So.2d 233, 238 Fla. 1996; *Graham v. State*, 779 So.2d 604 Fla. 2d DCA 2007 - 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 the plea). Appellant's allegation of positive misadvice renders his motion legally sufficient (*Ghanavati v. State*, 820 So.2d 989 Fla. App. 2002; *Watrous v. State*, 793 So.2d 6 Fla. App. 2001 - defendant alleged that counsel erroneously advised him that he would be released from custody almost immediately after pleading, the 2nd DCA reversed the trial court's summary denial for postconviction relief). The plea is involuntary under FL 57 924.051 prejudicial error, 924.053 Fundamental error, and 924.06.

[Record Emergency Appeal of Order Denying Defendant's Related Motion to Withdraw Plea to Fifth DCA p.1-3]

3. Claim Three: Counsel was ineffective for misadvising the defendant into accepting a plea to a charge, the facts of which are unsupported by the information in violation of Fla. St. 929.051 prejudicial error and 929.053 Fundamental error, which renders the plea involuntary. The defendant pled guilty to a charge of False Imprisonment, but there were no facts read at the hearing or present in the arrest affidavit, or essential information, that support the charge. Fla. R. Crim. P. 3.172(c) instructs the trial judge to determine that a pleading defendant understands the nature and consequences of waiving the specific rights enumerated therein (*Muse v. State*, 23 So. 3d 763 Fla. App. 2009). Fla. R. Crim. P. 3.170(j) requires that there be a factual basis for the plea, and Rule # 3.172(a) states "Where it is clear from the factual basis presented at the plea hearing that the defendant could not have been convicted of the crime to which he has pleaded guilty, fundamental error has occurred, which can be corrected on appeal (*Eiseman v. State*, 490 So. 2d 770 Fla. App. 1983; *Dydek v. State*, 400 So. 2d 1255 Fla. 2d 1981). "Where, however, the trial court fails completely to develop a factual basis for the plea, withdrawal of the plea may still be denied in the absence of a showing that withdrawal is necessary to correct a manifest injustice (*Wright v. State*, 388 So. 2d 253 Fla. 2d DCA 1980; *Williams v. State*, 316 So. 2d 649 Fla. 1975; *Yurish v. State*, 420 So. 2d 649 Fla. 2d DCA 1982). Rule # 3.172(c)(1) Nature of Charge to which the plea is offered must be given to the defendant. Nothing provided in the information supports the elements of the crime for False Imprisonment, and counsel failed to advise his client that he should not plea to a crime charged that is not supported by the facts (see *Nicol v. State*, 892 So. 2d 1169, 1171 Fla. 5th DCA 2005 - holding that trial counsel's failure to give defendant any advice regarding the possibility of suppressing his pre-trial confession based upon an argument that his arrest was illegal established good cause to withdraw his plea). [Record Defendant's Belated Motion to Withdraw Plea p. 8-9]

4. Claim Four: Counsel was ineffective for withdrawing representation only 5 days after submitting the plea in violation of Rule # 3.170(c) Motion to Withdraw Plea After Sentencing, violation of Fla. R. App. P. 9.140(A)(ii)(c) an involuntary plea, and 9.140(d)(1) Withdrawal of Defense Counsel After Judgment and Sentence or After Appeal by State. 9.140(d)(1) states "The attorney of record for a defendant will not be relieved of any professional duties, or be permitted to withdraw as defense counsel of record... until either the time has expired for filing an authorized notice of appeal." Counsel for the defendant

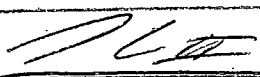
submitted a Motion to Withdraw Representation on September 23, 2018, only five days after the defendant signed the plea. The defendant was still incarcerated and had no way to contact counsel when defendant was informed that he could withdraw his plea due to the undisclosed requirement that he could have to register as a felon and risk losing his security clearance. Counsel failed to appear at the plea hearing, and substitute counsel was unfamiliar with the case and was unaware of what counsel had advised the defendant. The defendant was unaware that he had court on September 18, 2018 to sign a plea and claimed in his original motion that counsel failed to provide the defendant with a reasonable amount of time to consider the plea in accordance with Fla. R. Crim. P. Rule # 3.170 (J). [Record Defendant's Belated Motion to Withdraw Plea p. 11-13] [Record Counsel's Motion to Withdraw Representation Filed 9/18/2018].

5. Claim Five: The discovery of new evidence extended the time period for filing a postconviction motion under Rule # 3.850 because the new evidence was not available prior to the state filing charges in case no. 2019-MM-00351-E. This claim was raised in the defendant's 3.850 motion attacking the plea and defense counsel's failures to develop a defense strategy based on irreparable misidentification, the lack of defense made trial unfavorable to the defendant and led him with no option, but to seek a plea. The newly discovered evidence is relevant in this motion because the motion's format complies with all the requirements of a valid 3.850 motion and since the newly discovered evidence was revealed in August 19, 2019, the defendant's Belated Motion for Plea Withdrawal would be considered timely filed under the two-year limit for a 3.850 motion and the court is authorized to treat the belated plea withdrawal as a timely filed 3.850 motion. (Davis v. State, 154 So.3d 1203 Fla. App. 2015; Franklin v. State, 31 So.3d 998 Fla. App. 2010, and Houghtaling v. State, 670 So.2d 1019 Fla. App. 1996; The 2nd DCA ruled that the circuit court erred in not resolving the belated motion on the merits as if filed under rule 3.850 and reversed the decision and remanded for the postconviction court to consider the motion under rule 3.850, Davis v. State, 2015). [Record 3.850 Motion for Postconviction Relief Filed June 11, 2021].

6. Claim Six: Any delay in seeking to withdraw the defendant's plea or file a postconviction motion was not attributable to the defendant. As previously explained, the defendant did not have counsel after September 18, 2018 to request a motion to withdraw plea within the 30-day time limit. The defendant was not assigned another attorney until November 2018, well after the 30-day deadline, which was too late to request a plea withdrawal or file a direct appeal to preserve issues for appellate review. The defendant had ten (10) attorneys between September 2018 - March 2020, and all his attorneys misadvised him on how to file any sort of appeal as they were not appellate attorneys. The defendant further claimed that the Orange County Jail does not have an adequate law library or persons trained in the law to assist the defendant in seeking postconviction relief. A jail law library does not need to provide more than minimal necessities and access to pro se defendants who choose to represent themselves as they could have lawyers appointed; however, a defendant who has been convicted in one case, but remains incarcerated pending a separate case, has no right to a lawyer to assist with a postconviction motion, but the time to file that motion is not tolled while the defendant remains in county custody, as opposed to being transferred to the Department of Corrections where legal assistance is mandatory. "Criminal defendants have a fundamental, constitutional right to adequate, effective, and meaningful access to the courts." (*Baggett v. Wainwright*, 229 So.2d 239 Fla. 1970; *Clifford v. State*, 513 So.2d 772, 12 Fla. L. Weekly 2409 Fla. App. 1987). In *Bonds v. Smith*, 430 U.S. 817, 821, 97 S.Ct. 1491, 52 L.Ed.2d 72 1977, the Supreme Court ruled that this right "requires prison authorities to assist inmates in the preparation and filing of meaningful legal papers by providing prisoners with adequate law libraries or adequate assistance from persons trained in the law." (*Bonds v. Smith*, 1977). The defendant had to try to figure out how to even file an appeal as a complete novice and he had no legal assistance. Furthermore, Orange County Jail's process for requesting case laws takes three weeks or longer at best and an inmate can only submit one request per week. In March 2020, during the COVID-19 pandemic, the law library was closed for weeks, and then requests were severely delayed. In September 2020, the defendant mailed a motion for extension to file postconviction motion to the trial court and also requested appellate counsel, but the court denied the motions as legal nullities for dual representation, despite the defendant's counsel asserting that he had no responsibility to assist the defendant with any process involving the postconviction process. [R. Related Plea Withdrawal p. 19-21]

OATH

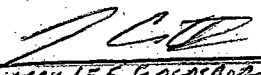
Under penalties of perjury, I declare that I have read the foregoing motion, or had it read to me, that I understand the motion's content, and that all of the facts alleged in the motion are true and correct.


HARRY LEE COLASOUR II

APPELLANT, PRO SE
B30111 / JAIL # 4838407

CERTIFICATIONS AND ACKNOWLEDGEMENTS

I certify that the motion is filed in good faith, that I have a reasonable belief that the motion is timely filed, has potential merit, and does not duplicate previous motions that have been disposed of by the court. I certify that I understand English and have read the foregoing motion or had it read to me. I understand that I am subject to judicial or administrative sanctions, including but not limited to forfeiture of gain time, if this motion is found to be frivolous, malicious, made in bad faith, or with reckless disregard for the truth, or an abuse of the legal process.


HARRY LEE COLASOUR II

APPELLANT, PRO SE
B30111 / JAIL # 4838407

CERTIFICATE OF SERVICE

I certify that the foregoing document has been furnished to the 6th PCA Clerk of Courts 811 East Main Street Lakeland, Florida 33801, the State of Florida at the Office of the Attorney General 444 Seabreeze Blvd 5th Floor Daytona Beach, FL 32119, and the 9th Judicial Circuit Clerk of Courts 425 N. Orange Ave. Room 210 Orlando, FL 32801 by mail on this 27th day of July 2024.

APPENDIX E

EMERGENCY APPEAL OF ORDER DENYING DEFENDANT'S RELATED MOTION TO WITHDRAW

PLEA TO FIFTH DCA

DATE: 5/24/2023

PAGES: 23-27

ATE OF FLORIDA,
Plaintiff / Appellee

HARRY LEE GOLDSBORO II,
Defendant / Appellant

IN THE CIRCUIT COURT OF THE NINTH
JUDICIAL CIRCUIT IN AND FOR ORANGE COUNTY, FLORIDA
APPEAL OF ORDER FROM 9TH CIRCUIT TO 5TH DCA
CASE NO: 2018- CF-004010-A-O
REV: 19

EMERGENCY APPEAL OF ORDER DENYING DEFENDANT'S BELATED MOTION TO WITHDRAW PLEA TO FIFTH DCA

COMES NOW, on this 24th day of May, 2023, the defendant/appellant, HARRY LEE GOLDSBORO II, pro se, submits this timely emergency appeal of Order Denying Defendant's Belated Motion to Withdraw Plea. Following the circuit court's denial without prejudice, defendant's pro se "Motion For Belated Plea Withdraw" filed on April 26, 2021. On May 12th, 2023, the circuit court cited that it lacked jurisdiction to rule on the motion since it was submitted after the thirty-day time limit under Rule 3.170(U). However, since the defendant only filed the motion within the two-year limit of the Rule 3.850 Motion For Postconviction Relief, and it meets the procedural requirements, attains a proper oath, and raises claims that are appropriate for a 3.850 motion, the circuit court should have treated it as a 3.850 motion and ruled on its merits. The defendant respectfully requests that this Honorable District Court of Appeals conduct an emergency review of the defendant's motion and submits an expedited ruling reversing the circuit court's order and remanding the circuit court to analyze and rule on the merits of the motion.

The defendant/appellant is requesting consideration for an emergency review and expedited ruling because the defendant successfully completed his prison sentence on May 12th, 2023, and said sentence was the direct result of the conviction from which the defendant is seeking relief. In addition, the defendant argues in his original motion to withdraw his plea that his counsel misled and misinformed him of the consequences of signing the plea. One such consequence is that the state filed a petition seeking civil commitment as a sexually violent predator under the Jimmy Ryce Act based on the underlying conviction of which the defendant sought relief from by filing the motion to withdraw plea back in April 2021. The state is basing its civil commitment petition on this sole conviction of which the defendant's counsel figuratively explained "you don't have to worry about that, it doesn't apply to you," when he asked about the JPA clause during the plea colloquy. A trial for the civil commitment is currently scheduled for July 18, 2023; therefore, the defendant respectfully requests that this honorable court consider this appeal an emergency and expedites a ruling since the defendant's prison sentence has ended and prior to a civil commitment trial commencing. The defendant is currently incarcerated in the Brevard County Jail awaiting the 5th DCA's ruling on a writ of prohibition following the state's order to show cause on defendant's motion to dismiss a case from 2019 based on a violation of constitutional speedy trial. The defendant is seeking for the 5th DCA to reverse the circuit court's order denying the defendant's motion and remand the circuit court to analyze the merits of the defendant's original motion, sit already meets the procedural requirements of a 3.850 motion and treat it as a timely filed 3.850 motion in accordance with the 2nd DCA's rulings in *Parrish v. State* 154 So.3d 1203 Fla. App. 2015, *Franklin v. State* 31 So.3d 998 Fla. App. 2010 and *Hughtaling v. State* 670 So.2d 1019 Fla. App. 1996, and rule on the merits of the motion prior to July 5th, 2023 if possible. Furthermore, in accordance with *Miller v. State* 617 So.2d 332 Fla. App. 1996, *Lemus v. State* 585 So.2d 388 Fla. App. 1991, and *Haywood v. State* 615 So.2d 707 Fla. App. 1992 and the 2nd DCA's ruling permitting the defendant to resubmit their motions to the court after amending them to be in technical compliance by adding a proper oath, since the original motions were

timely Filed, although the court's order was entered after the two-year limit of rule 3.850, any amendment and resubmission of the motion to bring it technical compliance is not time-barred (Miller-Lewis and Hayswood). Therefore, the defendant is amending his four prior postconviction motions to ensure that they all contain a proper oath in compliance with the procedural requirements of a 3.850 motion. The circuit court ruled on defendant's Belated Motion to Withdraw Plea from April 2021 in case # 2018-CF-004010-A-0, but the defendant has a pending 3.850 Motion For Postconviction Relief For Ineffective Assistance of Counsel in the same case # From the original plea, a pending 3.850 For Ineffective Counsel in same case # for the violation of probation conviction that led to his five-year prison sentence, and a pending 3.800 Motion to Correct Illegal Sentence based on the same VOP conviction and sentence for being sentenced to a five-year prison term for a first-time, low-risk technical violation being out of the county without permission. The defendant is amending the timely submitted motions to ensure that they contain proper oaths because he is currently incarcerated at the Brevard County Jail and he has no ability to retrieve or access his copies of these motions: they are stored in his property at Mardex C.I. The defendant Filed a request to the Orange County Clerk of Courts requesting copies of his postconviction motions; however he will not receive them before the 30-day limit for appealing the circuit court's decision expires. The defendant understands the very short and narrow window in which he is asking a superior court to make a decision and deliver that decision to a lower court and effectuate a ruling. Of note, in anticipation of the defendant's release from prison, in August or September 2021, the defendant submitted a notice of inquiry to find out the case disposition and was informed that no decision had been made. The circuit court did not issue its order denying the defendant's motion until more than two years after was submitted and on the exact day of the defendant's release from prison. The circuit court's delayed ruling prevented the defendant from appealing a decision sooner to provide both the district court of appeals and the circuit court sufficient notice and time to review the motions and make a ruling. Consequently, the defendant's legal circumstances dictate that an emergency review and expedited ruling is necessary to prevent a potentially premature civil commitment trial if relief is granted, and the defendant remains incarcerated awaiting transfer to the civil commitment center despite satisfactorily completing his prison sentence and being released from prison.

In Davis v. State, the 2nd DCA ruled that the circuit court erred in not resolving the belated motion on the merits as if Filed on rule 3.850 and reversed the decision and remanded for the postconviction court to consider the motion under rule 3.850. The appellant, Th Davis, pro se, appealed the order denying his belated motion to withdraw plea, which the postconviction court denied as untimely without prejudice to File a motion for postconviction relief under Fl. R. Crim. P. 3.850. Davis's motion was styled as a motion to withdraw plea under rule 3.1 and while the postconviction court correctly determined that the motion was untimely under that rule because it was not Filed within thirty days of the rendition of the sentence, the analysis should not have ended there. When a defendant Files a motion to withdraw plea under rule 3.850(i), but the time to File such a motion has passed, the postconviction court should consider it under rule 3.850 so long as it meets the

cedural requirements of that rule.

In *Franklin v. State*, the 2nd DCA reversed the circuit court's order striking Mr. Franklin's motion to withdraw plea, without prejudice, and remanded for further proceedings because Franklin's motion should have been treated as a motion for postconviction relief under rule 3.850.

Franklin was sentenced on May 23, 2008, and he filed a motion to withdraw plea on October 15, 2009. The motion was untimely under rule 1.70(1), which requires filing within 30 days after sentencing. The court declined to treat the motion as if it had been filed under rule 3.850 finding that it did not contain an oath as required by that rule. However, not only did Franklin's motion include a proper oath, it was filed within two years after sentencing, as required by rule 3.850, and raised claims that would be appropriate in a rule 3.850 motion. Because Franklin's motion met the procedural requirements of rule 3.850, the court should have treated it as a 3.850 motion.

In *Houghtaling v. State*, the 2nd DCA reversed the circuit court's summary denial of Houghtaling's petition for writ of habeas corpus and held that the circuit court should have treated the motion as a 3.850 and considered it on its merits. The petition is simply an incorrectly styled motion for postconviction relief. The motion satisfies the procedural requirements of rule 3.850, contains a proper oath, was filed within the prescribed two-year period, and mirrors the official form for postconviction relief. As in *Franklin*, Davis's motion was timely, under oath, and raised claims that would be appropriate in a rule 3.850 motion. Accordingly, the 2nd DCA reversed and remanded for the postconviction court to consider the motion under that rule.

In *Miller v. State*, the 2nd DCA reversed the order of denial and remanded for the trial court to rule on the merits of the motion. The trial court dismissed Miller's timely filed 3.850 motion for lack of an oath, but the order was entered after the two-year limit of rule 3.850 expired. 28 days after the order of dismissal, the appellant resubmitted his motion with the appropriate oath, but the trial court erred in denying his motion as time barred. In *Lemus v. State*, the appellate court ruled that trial courts should not bar relief where the defendant's primary modification to the original motion is a timely correction to bring it into technical compliance with rule 3.850. As long as the original motion was timely filed and the defendant was in custody, the dismissal without prejudice allowed him to amend his motion.

Finally, in *Hagwood v. State*, the trial court erred in finding his resubmitted amended motion was untimely because the trial court dismissed the timely filed original motion without prejudice. All in all, Mr. Goldsboro, the defendant, argues that these six cases provide the justification that the postconviction court erred in not analyzing the merits of his motion as a rule 3.850 motion. Additionally, the defendant is merely amending his timely filed original motions to ensure that they are in compliance with the oath requirement, since he cannot read his own motions as he has no access to them at the Brevard County Jail, and make the amendments before the court reviews and rules on the motions.

In the order denying Mr. Goldsboro's motion, the circuit court relied on the following cases citing a lack of jurisdiction:

1. *Gufford v. State* 783 So.2d 1191/1192 Fla. 1st DCA 2001; 2. *Smith v. State* 113 So.3d 110/111 Fla. 5th DCA 2013; 3. *Curtis v. State* 106 So.3d 56 Fla. 2nd DCA 2013

4. *State v. Schafer* 583 So.2d 374/376 Fla. 4th DCA 1991; and 5. *Garcia v. State* 128 So.3d 115 Fla. 5th DCA 2013; however, all five of these cases are irrelevant to the defendant's motion, lack any similarity, and the court's reliance on them is in error. First, *Gufford* Filed a 3.800 motion to correct sentence, but a sentence that exceeds the terms of a plea agreement is no longer considered a "sentencing error" but is instead determined to be a violation of the plea agreement that must be challenged under Fl. R. Crim. P. 3.170(1) within 30 days after the trial court renders the sentence (*Gufford*). A 3.800 motion is procedurally different than a rule 3.850 motion and there is no room for interpreting a belated motion to withdraw plea under rule 3.170(1) as a 3.800 motion.

In *Smith v. State*, the trial court lacked jurisdiction to entertain Smith's motion to withdraw his plea because he had a pending direct appeal, and once a notice of appeal is filed, the trial court does not have jurisdiction to decide a subsequently filed motion to withdraw a plea. Mr. Goldsboro had no pending direct appeal in the present case. In *Curtis v. State*, the postconviction court denied Curtis's motion to withdraw his plea finding that it was without jurisdiction to consider the motion and that the motion, as filed, could not be construed as one pursuant to rule 3.850 and ultimately ruled the motion as untimely without any explanation. However, the 2nd DCA reversed the denial of Curtis's motion and remanded the postconviction court to consider the issue of timelines, and rule upon the merits of the motion. In *Garcia v. State*, the postconviction court denied Garcia's motion to withdraw his plea as untimely as it was filed after the 30 day limit. The 5th DCA affirmed the order denying the motion; however, there is no indication that Garcia's motion met the procedural requirements of a 3.850 motion. *State v. Schafer* has absolutely nothing to do with the present case in similarity or relevance. The circuit court merely transcribed the following quote: "that the defendant cannot confer jurisdiction on the trial court by waiver, acquiescence, estoppel, or consent" citing *White v. State* 404 So.2d 804 Fla. 2d DCA 1981 (*State v. Schafer*). However, in *State v. Schafer*, the appellee signed a request to extend his probation term without the advice of counsel, and this consent forfeited his right to a mandatory hearing that required representation to be present. Therefore, although he consented, his consent could not confer jurisdiction on a mandatory hearing. Once again, the defendant in *Schafer* filed a 3.800 motion, not a plea withdrawal. As demonstrated and explained in this appeal motion the circuit court's argument that it lacks jurisdiction is without merit because the appellant's original motion was timely filed on April 26, 2021 well before the deadline, and if a amendment to the oath is required to be resubmitted, it should not be time-barred because the original motion was timely filed and the court should consider the motion based on its merits and procedurally complying with the requirements of a 3.850 motion.

OATH

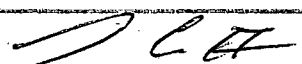
Under penalties of perjury, I declare that I have read the foregoing motion, or had it read to me, that I understand the motion's content, and that all of the facts alleged in the motion are true and correct.


HARRY LEE GOLDSBORO II

Defendant, Pro SE
B3011 / Jail # 4838407

CERTIFICATIONS AND ACKNOWLEDGEMENT

I certify that the motion is filed in good faith, that I have a reasonable belief that the motion is timely filed, has potential merit, and does not duplicate previous motions that have been disposed of by the court. I certify that I understand English and have read the foregoing motion, or had the motion read to me. I understand that I am subject to judicial or administrative sanctions including but not limited to forfeiture of gain time, if this motion is found to be frivolous, malicious, made in bad faith or with reckless disregard for the truth, or an abuse of the legal process.


HARRY LEE GOLDSBORO II

Defendant, Pro SE
B3011 / Jail # 4838407

CERTIFICATE OF SERVICE

I certify that the foregoing document has been furnished to the 5th DCA Clerk of Courts 300 S. Beach St. Daytona Beach, FL 32119-0001, the 9th Judicial Circuit Clerk of Courts 425 N. Orange Ave. Room 210 Orlando, FL 32801, Office of the State Attorney, Postconviction Felony, 425 N. Orange Ave. Orlando, FL 32801, and State Attorney's Office 301 South Monroe St. Suite #475 Tallahassee, FL 32301 [The Brevard County Jail Law Library provided the addresses for the 5th DCA and State Attorney's Offices, so if they are incorrect, please forward to the next mailing address] by mail on 24 MAY 2023.


HARRY LEE GOLDSBORO II

Defendant, Pro SE
B3011 / Jail # 4838407

SMART COMMUNICATIONS/BREVARD COUNTY
P.O. BOX 9143

SEMINOLE, FL 33775-9143
24 MAY 2023

APPENDIX F

DISCOVERY AND RECORD FOR NEWLY DISCOVERED EVIDENCE

DATE: 10/19/2019

PAGES: 28-57

From:

10/19/2018 12:00 #383 P.005/024

Region: CSA: Grid:
WPK 8

OFFENSE REPORT
Winter Park Police Department

For the public: No Agency Report #:
Juvenile: No 201846000364
Domestic Violence: No Event #:
Dating Violence: No 20180771018

Agency ORI: FL0480600

Reported Day/Date: Time Dispatched: Time Arrived: Time Completed: Date Occurred From: Date Occurred To:
Sun 3/18/2018 8:24 3/18/2018 9:24 3/18/2018 9:30 3/18/2018 09:49 Sun 3/18/2018 8:30 Sun 3/18/2018 8:15
Subdivision: Forced Entry: Occupancy: Type of Weapon: Location Type: Municipality:
N/A Occupied NA HIGHWAY/ROADWAY WP
Incident Address: Dispatch Address:
MINNESOTA AVE & AZALEA LN WINTER PARK FL 32789 MINNESOTA AVE & AZALEA LN WINTER PARK FL 32789
#Offenses: #Victims: #Offenders: #Prem. Ent: #Arrested: Drug Related: Alcohol Related: Call Disposition: Signal Code: Clearance:
01 02 01 0 00 I 44OR Transferred to
SAO (Capias)

OFFENSES SECTION

Off#	Description	Statute#	UCR	Ordinance	Attempt/Commit	Warrant #	DVR	Drug Activity
1	INDECENT EXPOSURE EXPOSURE OF SEXUAL ORGANS	800.03	3700	No	C		No	

PERSON SECTION

CONFIDENTIAL PERSON

Name: **BALDYGA, JUDITH ANN** R/S: W/F DOB: 1/27/1959 or Age:
Adult/Juvenile: A SSN: 044-60-8147 Hgt: 507 Wgt: Hair: Eyes: Offense Indicator: 1
Person Type: VICTIM- ADULT DL#: B432421595270 DL State: FL
Address: 5521 Hammock Cir St Cloud, FL 34771 Place of Birth:
Email: Phone:
OthPhone1: Cell Phone: 4074672880
NOK: OthPhone2:
NOK Address: NOK:
Emp. Address: NOK Phone:
Comments: Job: Bus. Phone:

Name: **GOLDSBORO, HARRY LEE** R/S: B/M DOB: 4/14/1983 or Age:
Adult/Juvenile: A SSN: 600-52-6365 Hgt: 511 Wgt: 200 Hair: BLACK Eyes: BROWN DL#: G432372831340 DL State: FL
Person Type: SUSPECT City of Birth: Place of Birth:
Address: 1333 Blazen Ridge Ct Melbourne, FL 32934 Phone:
Email: M3RCURY1983@GMAIL.COM Cell Phone: 757-592-4066
OthPhone1: OthPhone2:
NOK: NOK:
NOK Address: NOK Phone:
Emp. Address: 734 SPACELIFT AVE 920 OPERATIONS SQUARE Job: 2ND LIEUTENANT Bus. Phone: 321-494-6868
Comments:
Relationship: STRANGER OBTS#: FBI#:
State#: Local#: Misc Id: Other Id:

CONFIDENTIAL PERSON

Name: **LYONS, JENNIFER WOODALL** R/S: W/F DOB: 3/28/1972 or Age:
Adult/Juvenile: A SSN: 594-10-3181 Hgt: 506 Wgt: Hair: Eyes: Offense Indicator: 1
Person Type: VICTIM- ADULT DL#: L520439726080 DL State: FL
Address: 936 GARDEN DR WINTER PARK, FL 32789 Place of Birth:
Email: Phone:
OthPhone1: Cell Phone: 4077648405
NOK: OthPhone2:
NOK Address: NOK:
Emp. Address: NOK Phone:
Comments: Job: Bus. Phone:

201846000364

Printed On: 03/26/2018 14:18
Printed by: WINTERPARK\jdailes

Page 1 of 6

From:

10/19/2018 12:00

#383 P.006/024

Region: CSA: Grid:
WPK 8

OFFENSE REPORT
Winter Park Police Department

Agency ORI: FL0480600

For the public: No Agency Report #:
Juvenile: No 201846000364
Domestic Violence: No Event #:
Dating Violence: No 20180771018

IDENTIFIER SECTION

Name: GOLDSBORO, HARRY LEE
Identifier: UNKNOWN / UNKNOWN
Name: BALDYGA, JUDITH ANN
Identifier: NONE / NONE

LE/BUSINESS SECTION

Name: DETECTIVE YONG HALL Contact: ORLANDO POLICE DEPARTMENT
Offense Indicator: 1 Other Id: Phone#: 407-246-3583 Comments:
Type: OTHER/LE OFFCR
Address: 1250 W South St Orlando FL 32805

PROPERTY

Owner: *OWNER NOT ENTERED*
Item#:1 Offense#: 1 Details: PHOTO LINEUP A
Qty: 1 Units: Serial#: Owner#: Est Value: \$0.00
Model: Brand: Evidence Tag:1 Size: Color: NCIC: YDOC
Status: Case Evidence/Seized Damage: Recovered Date: Theft Type:
PCN: NIC: Rec. Value: \$0.00
Property Narrative: Scene -- Det. Giarrusso -- Det. Dalles -- Evidence 3/23/2018 1730 Hours. / Photo lineup A administered to Victim Lyons on 3/19/2018 by Detective Giarrusso.

Owner: *OWNER NOT ENTERED*
Item#:2 Offense#: 1 Details: AUDIO RECORDING OF PHOTO LINEUP A
Qty: 1 Units: Serial#: Owner#: Est Value: \$0.00
Model: Brand: Evidence Tag:2 Size: Color: NCIC: YAUDIO
Status: Case Evidence/Seized Damage: Recovered Date: Theft Type:
PCN: NIC: Rec. Value: \$0.00
Property Narrative: Scene -- Det. Giarrusso -- Det. Dalles -- Evidence 3/23/2018 1730 Hours. / Audio recording of photo lineup A administered to Victim Lyons on 3/19/2018 by Detective Giarrusso.

Owner: *OWNER NOT ENTERED*
Item#:3 Offense#: 1 Details: PHOTO LINEUP B
Qty: 1 Units: Serial#: Owner#: Est Value: \$0.00
Model: Brand: Evidence Tag:3 Size: Color: NCIC: YDOC
Status: Case Evidence/Seized Damage: Recovered Date: Theft Type:
PCN: NIC: Rec. Value: \$0.00
Property Narrative: Scene -- Det. Graham -- Det. Dalles -- Evidence 3/23/2018 1730 Hours. / Photo lineup B administered to Victim Baldyga on 3/23/2018 by Detective Graham.

Owner: *OWNER NOT ENTERED*
Item#:4 Offense#: 1 Details: AUDIO RECORDING OF PHOTO LINEUP B
Qty: 0 Units: Serial#: Owner#: Est Value: \$0.00
Model: Brand: Evidence Tag:4 Size: Color: NCIC: YAUDIO
Status: Case Evidence/Seized Damage: Recovered Date: Theft Type:
PCN: NIC: Rec. Value: \$0.00
Property Narrative: Scene -- Det. Graham -- Det. Dalles -- Evidence 3/23/2018 1730 Hours. / Audio recording of photo lineup B administered to Victim Baldyga by Detective Graham on 3/23/2018.

201846000364

Printed On: 03/26/2018 14:18

Printed by: WINTERPARKjdahes

Page 2 of 6

From:

10/19/2018 12:00

#383 P.007/024

Region: CSA: Grid:
WPK 8**OFFENSE REPORT**
Winter Park Police Department

Agency ORI: FL0480600

For the public: No Agency Report #:
Juvenile: No 201846000364
Domestic Violence: No Event #:
Dating Violence: No 20180771018**VEHICLES**

Vehicle#: 1 Offense#: 1 Status: 9-Other Damage: -
 Vehicle Type: 01 AUTO Year: 2012 Make: NISS Estimated Value: \$0.00
 Model: ALT Style: 4D
 VIN: 1N4AL2APXCC143338 Color: BLK Veh. Length: Boat Type:
 Tag#: 474MWP Tag State: FL Decal#: 04701496/9 Tag Year: Tag Type: PC
 Description:
 Locked: N Windows Closed: N Keys in Vehicle: N Property in Vehicle: N Property Tagged: N Located: N Loc. Date:
 Insurance Co: USAA GENERAL INDEMNITY COMPANY Policy: 021613219G71011
 Leln Holder: FAIRWINDS CREDIT UNION FCIC/NCIC
 Recovery Date: Recovery Code: Recovered Value: \$0.00
 Recovery Geography: Original Agency:
 Recovery Address:
 Damaged Amt: \$0.00 Comp. Stripped: Theft Method:
 Towed Date: Towed From: Wrecker:
 Towed To: Reason:
 Hold: No Hold Reason: Hold By:
 Notified Date: Notified Whom: Notified By:
 Release Date: Released To: Released By:
 Receipt#: PCN: NIC:

NARRATIVES

Rpt Date: 03/18/2018 09:51	Reporter: Walker, Matthew	WP188	Clearance: Open	Nar Type: O
Mod By: WINTERPARK\mwalker	Mod Date: 03/18/2018 10:07	Related Case #		
On March 18, 2018, at around 0930 hours, I responded to the intersection of Minnesota Ave and Azalea Ln regarding a reported indecent exposure act. I met with the victim, Jennifer Lyons, who advised she was walking eastbound along Minnesota Ave crossing Azalea Ln when a black sedan stopped in front of her. She said the black sedan bearing FL tag 474MWP, possibly a four door Nissan, had been traveling westbound on Minnesota Ave and turned left onto Azalea Ln, stopping in her path. She said the window was rolled down and the driver (and sole occupant), exposed was "jacking off". She described the subject as a black male, possibly in his thirties, with a shaved or bald head. She said he was stopped for about 10 seconds and was staring at her while he masturbated. She said he then drove south on Azalea Ln and turned left (on to Melrose Ave) where she lost sight of the vehicle. Lyons completed a sworn statement and indicated she desired prosecution. I checked the tag provided through the DAVID database and found it was assigned to a black 2012 Nissan registered to a Harry Lee Goldsboro II (B/M DOB 4/14/1983) with an address in Melbourne, FL. A check of the FINDER database for Goldsboro found a report from the Orlando Police Department appearing to document an incident involving indecent exposure and listing Goldsboro in the report (OPD case 201800066025).				
I swear/affirm the above statements are true and correct: Officer's Signature		Sworn to and subscribed before me, the undersigned authority, this _____ day of _____, in the year _____ Name/Title of Person Authorized to Administer Oath		
Walker, Matthew Name and Employee # (Printed)		WP188		

201846000364

Printed On: 03/26/2018 14:18

Page 3 of 6

Printed by: WINTERPARK\jdailes

From:

10/19/2018 12:00

#383 P.008/024

Region: CSA: Grid:
WPK 8**OFFENSE REPORT**
Winter Park Police DepartmentFor the public: No Agency Report #:
Juvenile: No 201846000364
Domestic Violence: No Event #:
Dating Violence: No 20180771018

Agency ORI: FL0480600

Rpt Date: 03/20/2018 19:29	Reporter: STEPHENSON, AARON	wp614	Clearance: Open	Nar Type: S
Mod By: WINTERPARK\AStephenson	Mod Date: 03/20/2018 19:43	Related Case #:		

On 3/20/18 at approximately 1822 hours, I responded to 451 Fairfax Ave in reference to an indecent exposure. Upon my arrival, I made contact with the victim, Judith Baldyga.

Judith provided a sworn statement. She stated that on 3/18/18 at approximately 0830 hours, she was sitting on the front porch at her fiancé's residence when she observed a black recent model sedan drive up the street very slowly. Approximately 20 minutes later, she then observed a black male approximately 17-20 years of age walk around the corner of the house to where she was sitting. She said hello to the unknown subject to which the subject did not reply but only gave her a strange look. Judith then noticed that he had his penis outside of his pants and was masturbating while staring at her. She proceeded to run inside her house, locked the door and woke up her fiancé. The suspect had short black curly hair and was wearing a sweat suit with red shirt. Refer to statement for further information.

i. Ulrich stated suspect was wearing jeans not sweat suit.

It should be noted that Judith believes that she could recognize him if she saw him again.

She did not give permission for the suspect to expose himself to her and wishes to press charges.

I declare/affirm the above statements are true and correct:

Officer's Signature:

Sworn to and subscribed before me, the undersigned

on this _____ day of _____ in the year _____

STEPHENSON, AARON
Name and Employee # (Printed)

wp614

Name/Title of Person Authorized to Administer Oath

Rpt Date: 03/26/2018 13:50	Reporter: Dalles, John	wp183	Clearance: Transferred to	Nar Type: S
Mod By: WINTERPARK\Jdalles	Mod Date: 03/26/2018 13:50	Related Case #:		

On March 19, 2018 I, Detective John Dalles, was assigned this case involving the exposure of sexual organs by an unknown black male suspect. On March 18, 2018 at approximately 0915 hours, Victim Jennifer Lyon (Victim 1) was walking westbound on Minnesota Avenue and crossing Azalea Lane. The suspect drove into her path and Victim Lyons observed the black male suspect was masturbating. The suspect fled southbound in a black Nissan Altima. Victim 1 observed the tag on the vehicle was Florida tag 474MWP.

A search of Florida tag 474MWP came back to a black 2012 Nissan Altima registered to Harry Lee Goldsboro II, a black male born 04/14/1983. The suspect was described as a black male, possibly in his thirties, with a shaved or bald head. This description is consistent with Suspect Goldsboro's appearance. Suspect Goldsboro was the only person listed on the suspect vehicle's registration. There were no other people with a Florida Driver's license at Suspect Goldsboro's home address that had a similar appearance to Suspect Goldsboro.

Detective Dalles conducted a search of Suspect Goldsboro's information and located Orlando Police Department offense report 201800066025. In this report, the victim reported exposure of sexual organs in the Orlando International Airport parking garage. A black male suspect with a description consistent with Suspect Goldsboro was operating a black Nissan Altima and following the victim in the parking garage. The victim quickly got into the car and looked back to begin reversing out of the parking space. The victim observed the suspect at the victim's passenger window with his penis exposed and masturbating. The victim took a photo of the suspect vehicle's tag, Florida Tag 474MWP. This is the same suspect vehicle that was used to victimize Victim Lyons.

Detective Dalles contacted OPD Detective Yong Hall, who was assigned OPD case 201800066025. Detective Hall was additionally assigned OPD case 201800108884 that occurred in Baldwin Park on March 18, 2018 at approximately 0855 hours. Another victim was walking her dog outside of her apartment building located at 1701 Meeting Place, Orlando, FL. The victim returned to the door of her apartment and was tapped on the shoulder by a black male suspect. The suspect motioned for the victim to look down and the victim saw the suspect's penis was exposed and masturbating. The victim turned to unlock the apartment door and enter her residence to get away from the suspect. The suspect grabbed the victim's butt and grabbed at her chest/shirt, scratching her upper chest. The victim screamed the suspect fled down the stairs. A neighbor/witness saw the suspect leaving in a black Nissan Altima or Maxima. The victim described the suspect was described as a black male, 20 to 30 years old, about 5'10", short hair with a round face, average build, wearing black jeans, a black zipper jacket, and a red shirt underneath. A witness saw the suspect leave in a Nissan that was either an Altima or Maxima. This witness described the suspect as a fit looking black male under 30 years old, with a low haircut and wearing a red/burgundy top. Detective Hall later advised that this suspect was identified as Harry Lee Goldsboro II.

This incident occurred approximately 20 minutes before Victim Lyons was approached by the suspect at Minnesota Ave and Azalea Lane.

Detective Dalles issued a bulletin advising officers of this criminal activity and concern that Suspect Goldsboro's behavior was appearing to escalate.

Detective Dalles and Detective Giarrusso met with Victim Lyons at the Winter Park Police Department. Detective Giarrusso administered a photo lineup to Victim Lyons. Detective Giarrusso was an independent administrator and had no knowledge of the

201846000364

Printed On: 03/26/2018 14:18

Page 4 of 6

Printed by: WINTERPARK\Jdalles

Region: CSA: Grid:
WPK 8

OFFENSE REPORT
Winter Park Police Department

For the public: No Agency Report #: 201846000364
Juvenile: No
Domestic Violence: No Event #: 20180771018
Dating Violence: No

Agency ORI: FL0480600

suspect information or contents of the photo lineup. Victim Lyons selected the person in position #3. The person in position #3 was a filler image and not the target image belonging to Suspect Goldsboro. The person in position #3 was Subject Jaron J. Howell (B/M DOB: 04/24/1982) who was not the target of the investigation. Subject Howell resides at 15409 Feather Star Place, Ruskin, FL. This address is 101 miles from the scene of the crime according to Google Maps. Detective Dalles conducted law enforcement database searches for Subject Howell which did not return any criminal history, no law enforcement contacts in the Greater Orlando, Winter Park area, and no ties to the Greater Orlando/Winter Park area. Victim Lyons estimated the amount of time that she observed the suspect to be approximately 10 seconds and did not appear to be confident in her identification.

Detective Hall informed Detective Dalles that he located a phone number for Suspect Goldsboro (757-582-4066) and Suspect Goldsboro's Facebook.com social media profile. Detective Dalles searched the provided phone number for Suspect Goldsboro, which returned the Facebook.com profile of "Gee Summers". Based on the multiple profile picture images, Detective Dalles identified the profile as belonging to Suspect Goldsboro. Detective Dalles observed that Suspect Goldsboro's appearance varied greatly when Suspect Goldsboro had short hair like in his Driver's License photo, versus when Suspect Goldsboro shaved his head bald. Suspect Goldsboro's Driver's License photo was used in the photo lineup with Victim Lyons.

On March 20, 2018 Detective Dalles received an anonymous Crimeline tip regarding an incident that was possibly related to this case. The tipster advised that they saw a suspicious person at 451 Fairfax Avenue in Winter Park on March 18, 2018 around 0830 hours. The tipster knew that the person did not reside at 451 Fairfax Avenue. The person was by himself on the side of the house. The tipster observed him walk around the house while masturbating. The suspect was described as a black male, 6" tall, 200 lbs., with short curly black hair, no facial hair or glasses, approximately 17-21 years old, and wearing black sweat pants and possibly a red shirt or jacket. This suspect description is consistent with this case and the Orlando Police Department cases.

Detective Dalles conducted a neighborhood canvas on Fairfax Avenue. Detective Dalles left a business card on the front doors asking to call about any suspicious activity on the morning of March 18, 2018. No video cameras were located in the area.

On the same date, Officer Aaron Stephenson responded to 451 Fairfax Avenue, Winter Park, FL in reference to another report of indecent exposure. The caller and victim, Judith Baldyga (Victim 2), provided a sworn statement. Victim Baldyga advised that on March 18, 2018 at approximately 0830 hours, she was sitting on the front porch at her fiancé's residence (451 Fairfax Ave). Victim Baldyga observed a black recent model sedan drive up the street very slowly. Approximately 20 minutes later, she then saw a black male 17-20 years of age walk around the corner of the house to where she was sitting. Victim Baldyga said hello to the suspect, but the suspect only gave her a strange look. Victim Baldyga then noticed that the suspect's penis was exposed and he was masturbating while staring at her. Victim Baldyga ran inside her house, locked the door, and woke up her fiancé. The suspect had short curly black hair and was wearing a sweat suit with a red shirt. This suspect was later identified as Suspect Harry Lee Goldsboro II.

Based on the similar suspect description in the two Winter Park Police incidents and the Orlando Police department incident in Baldwin Park. These cases are believed to be related due to the similar suspect and suspect vehicle description, method of operation of the crime, geographic location of each scene, and the timeline of each incident. Additionally, Suspect Goldsboro was positively identified in two of these incidents.

The timeline of these events are as follows:

3/18/2018 at 0830 hours: Suspect masturbating in front of victim at 451 Fairfax Ave, Winter Park, FL at 0850
3/18/2018 at 0855 hours: Suspect masturbating in front of victim and attempted sexual battery at 1701 Meeting Place, Orlando, FL (Baldwin Park)
3/18/2018 at 0915 hours: Suspect masturbating in front of victim at intersection of Minnesota Ave and Azalea Lane, Winter Park, FL

On March 22, 2018 Detective Dalles spoke with Victim Baldyga on the phone. Victim Baldyga believed she would be able to identify the suspect and was available Friday 3/23/2018.

Detective Dalles was notified by Detective Hall that Suspect Goldsboro was arrested on the warrant that was issued in the Baldwin Park case. Suspect Goldsboro was arrested at his home in Broward County. Suspect Goldsboro's black Nissan Altima (FL Tag: 474WMP) was at Suspect Goldsboro's home. Suspect Goldsboro advised that he did not want to talk with law enforcement. Suspect Goldsboro was a employed by the U.S. Air Force Reserve and held the rank of 2nd Lieutenant.

On March 23, 2018 Detective Dalles received a response from the same anonymous tipster regarding suspect information. The tipster was not sure which direction the suspect fled after leaving 451 Fairfax Avenue. The suspect arrived on foot, but there was a black sedan driving up and down the street slowly just before the suspect showed up. There was no one else on the street at the time.

Detective Dalles and Detective David Graham traveled to 451 Fairfax Avenue and met with Victim Baldyga. Detective Graham administered a photo lineup to Victim Baldyga. Detective Graham was an independent administrator and had no knowledge of the suspect information or contents of the photo lineup. Victim Baldyga selected the person in position #2. The person in position #2 was Suspect Harry Lee Goldsboro II. Victim Baldyga recognized Suspect Goldsboro as the person that walked up to her front door while masturbating on March 18, 2018 at approximately 0830 hours.

201846000364

Printed On: 03/26/2018 14:18

Page 5 of 6

Printed by: WINTERPARK\jdalles

From:

10/19/2018 12:01

#383 P.010/024

Region: CSA: Grid:
WPK 8**OFFENSE REPORT**
Winter Park Police Department

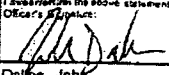
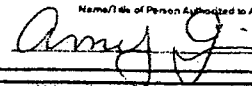
Agency ORI: FL0480600

For the public: No Agency Report #:
Juvenile: No 201846000364
Domestic Violence: No Event #:
Dating Violence: No 20180771018

Based on the totality of the circumstances I have probable cause to believe that Suspect Harry Lee Goldsboro II (B/M DOB: 04/14/1983) committed the offense of Exposure of Sexual Organs, a violation of Florida State Statute 800.03 whereas Suspect Goldsboro exposed or exhibited his penis in public at the intersection of Minnesota Ave and Azalea Lane in the City of Winter Park in a vulgar or indecent manner (masturbation) in the presence of Victim Jennifer Lyons. Victim Lyons obtained Suspect Goldsboro's license plate number. Suspect Goldsboro was identified as victimizing two other victims. The scenes of these crimes all occurred within 45 minutes of each other and within 3.5 miles at the furthest, according to Google Maps.

I also have probable cause to believe that Suspect Harry Lee Goldsboro II (B/M DOB: 04/14/1983) committed the offense of Exposure of Sexual Organs, a violation of Florida State Statute 800.03 whereas Suspect Goldsboro exposed or exhibited his penis in public and on the private premises of Victim Judith Baldyga in a vulgar or indecent manner (masturbation) in the presence of Victim Judith Baldyga. Victim Baldyga identified Suspect Goldsboro in a photo lineup.

Case Clearance: Transferred to SAO (Capias)

I swear that the above statements are true and correct: Officer's Signature:  #183		Sworn to and subscribed before me, the undersigned as being, this 21st day of March in the year 2018	
Dalles, John Name and Employee # (Printed) wp183		Name/Title of Person Authorized to Administer Oath  #1018	

ADMINISTRATIVE SECTION

Was Crime Scene Processed: No	Processed By:	Officer Shift: D	Section: WP	Unit: WP188	Date: 03/18/2018
Officer Reporting: WP188 Walker, Matthew		Review Date: 03/18/2018		Routed to:	
Reviewed By: WP124 Holley, William		Assigned Date: 03/19/2018		Assigned Dept:	
Assigned To: wp183 Dalles, John		Clearance Date: 03/26/2018		Referred To:	
Clearance: Transferred to SAO (Capias)					
Comments: INDECENT EXPOSURE					

COMPLETE

201846000364

Printed On: 03/26/2018 14:18

Printed by: WINTERPARK\dalles

Page 6 of 6

ORLANDO POLICE DEPARTMENT

Case # 2018-66025

Date of Statement: Month: 02 Day: 16 Year: 18 Time: 1030

Offense: EXPOSURE

Statement

Please fill out in full detail

Date of Offense: Month: 02 Day: 16 Year: 18 Time: 54 PM

Suspect (last, first, middle): Bim, 25-30, short hair, dark clothes

Location of Offense: B Garage

District:

Person Code: ☒ Name (last, first, middle): Bachman, Chelsea Age: DOB: 11-1389 Race: W Sex: F
Address: 707 S. Crystal Lake Dr Zip: 32803 Phone: 852-313-6502
Business: Zip: Phone:
Email Address:

Type of ID shown:

ID# if applicable:

I do hereby voluntarily make the following statement without threat, coercion, offer of benefit, or favor by any persons whomsoever.

I walked out to my car in the B Garage 2nd Floor at the Orlando International Airport. I watched a Black Nissan Altima drive by slowly past me. I got in my car and locked the doors and saw the car stop a few cars away from me. I turned the car on and looked over and an ~~man~~ African American man was walking up to my passenger side window masturbating. I turned away and by the time I put my car in reverse, he had driven off. I called 911 and ~~for~~ exited the parking garage. I pulled into a line to pay and a Black Nissan Altima was in front of me. I took a picture of the license plate and let the two women in the booth know that I called 911 and gave them his license plate number. I did not give anyone permission to expose themselves and I will prosecute if he is found.

Sworn to and subscribed before me, this 16 day of Feb 2018

Notary Public ☐ Law Enforcement Officer ☒ Name Key: 10159
Personally Known ☐ Produced Identification ☒ Type:

I swear/affirm the above and/or attached statements are correct and true.

Signature: Chelsea Bachman

My signature below means that I refuse to prosecute the person(s) named above for the alleged crime(s) that occurred to me or to the property under my control.

Signature: Date:

(Departmental policy prohibits use of this section in domestic violence cases.)

Victim Rights Booklet provided? Yes ☒ No ☐

I will testify in court and prosecute criminally. Initials:

Miranda Warning Read? Yes ☐ No ☐

Page 1 of 1

ORLANDO POLICE DEPARTMENT

2018-108884
Statement

Date of Statement	Month: 03	Day: 18	Year: 18	Time: 0945
Offense:				
Date of Offense	Month: 03	Day: 18	Year: 18	Time: 0855
Suspect (Last, First Middle)	Unknown			
Location of Offense	1701 Meeting Pl			District: C-7
Person Code:	Name (Last, First Middle): P. ULRICH, BIRTE	Age: 41	DOB: 11/24/76	Race: W Sex: F
Address (Street Address)	ORLANDO FL 32814			Phone: 251-510-8824
Address (Street Address, City, State)				
Business:				
Email Address:				
Type of ID shown:	FL DL		ID# if applicable:	U 962 060 76 929 0
BIRTE ULRICH				
I was walking my dog just outside our building. Walking back up to our second floor home, I did not notice anyone behind me, until someone touched my shoulder. I turned around and at the top of the stairs was a black man (appr. age mid 20- mid 30), black jeans, black tupper jacket with red / or red t-shirt under. I looked him briefly in the face and he signaled without words to look down as he was masturbating. I then turned around to open our door, that's where he grabbed my butt and after I spun around he he grabbed and scratched me at the chest. I then started yelling and screaming for help which had him running down the stairs and get into a black four door sedan which was parked into the driveway leading out of the parking lot. I believe, I would be able to identify the man. He did not have consent to do this to me and I am pressing charges.				
Sworn to and subscribed before me, this 18 day of March 2018 <i>[Signature]</i> 11326 Notary Public ☐ Law Enforcement Officer ☐ Name Key ☐ Personally Known ☐ Produced Identification ☐ Type ☐ My signature below means that I refuse to prosecute the person(s) named above for the alleged crime(s) that occurred to me or in the property under my control. Signature _____ Date _____ (Department policy prohibits use of this section in domestic violence cases.)				
Victims' Rights Booklet provided? Yes ☐ No ☐ I will testify in court and prosecute criminally. Initials: BU Miranda Warning Read? Yes ☐ No ☐ Page _____ of _____				

6753: 3 No height, facial features, hair, or build given in her statement.

Signature _____ Date _____		My signature below means that I am providing the person(s) named above for the alleged offense(s) that occurred to me or to the property under my control. ☐ Personally Known ☐ Produced Identification ☐ Type: <u>ELN</u> ☐ Notary Public ☐ Law Enforcement Officer ☐ Name Key ☐	
Sworn to and subscribed before me, this <u>17</u> day of <u>March</u> , 2018. <u>15799</u>		I will testify in court and prosecute criminally. ☐ Inmate: _____ Victim's Rights Booklet provided? Yes ☐ No ☒	
Miranda Warning Read? Yes ☐ No ☒		Page <u>1</u> of <u>1</u>	
Around 8:50-9 AM this morning as I stood in my kitchen with my windows open, I heard a woman scream 3 times - a very loud "no no, no, no, no" I looked at my window and saw a black man run from the stair well across from my window and jump into the driver side of a black sedan car. It looked like a Nissan a/k/a, maxima type car. The car appeared to be a Nissan. The driver was slender and of a looking tall profile height - not long, wearing a black jacket, hood to p. the hood down, then 30ish. A car was nice, no temperable stickers, etc. The driver drove away in a big hurry - no hand burn at noise. I did not see a yellow woman walking her dog minutes before coming from my side of the building. Her dog looked like a beagle or beagle mix.			
Type of ID shown: <u>ELN</u> Email Address: <u>michel.abram@gmail.com</u> Address (Home Address, City, State): <u>1701 N. 1st Ave. #218</u> Address (Business Address, City, State): <u>1701 N. 1st Ave. #218</u> Name: <u>Abraham, Michele, Murphy</u> DOB: <u>08/18/1985</u> Age: <u>32</u> Race: <u>M</u> Sex: <u>F</u> Height: <u>5'7"</u> Weight: <u>130</u> Eyes: <u>Blue</u> Hair: <u>Black</u> Location of Offense: <u>701 N. 1st Ave. #218</u> Date of Offense: <u>3/18/2018</u> Time of Offense: <u>0855</u> Suspect (Last, First Middle): <u>UKN</u> Please fill out in full detail: Statement <u>2018-108884</u>			

ORLANDO POLICE DEPARTMENT



Orlando Police Department Field Report



1250 W South St. Orlando, FL 32805 (407) 246-2470

Case Number: 2018-00108884

DETAILS

Location: 1701 MEETING PL 218

Reporting Officer ID: 11326 YOUNG, ERIC

Incident Type: Attempted Sexual Battery

Occurred From: 03/18/2018 08:55 Thru: 03/18/2018 08:55

Reporting Date: 03/18/2018 09:02

Approving Officer: 11322 PEEK, GRACE

OFFENSES

Counts	Attempt/Commit	Description	Dom. Violence	Location Type
1	Commit	SEXUAL OFFENSES: FORCIBLE	No	Apartment/Condo

NARRATIVE

On 03-18-18 at about 0905 hours, I Officer Young 11326 was dispatched to to investigate an over with sex crime. I contacted victim Birte Ulrich, who stated on this date at about 0855 hours, she was outside of her apartment building walking her dog. She returned to her building and walked up the external stairwell on the northwest side to her apartment on the second floor. Her residence is the first apartment by the stairs on the second floor. When she arrived at the second floor she felt a light touch on her shoulder. She turned around and saw the suspect, an unknown black male about 20 to 30 years of age, about 5'10", short hair with a round face, average build wearing black jeans, a black zipper jacket and a red shirt underneath. He motioned with his head for the victim to look down. She looked down and saw the suspects pants were undone, his penis was exposed and he was masturbating. Ulrich turned to unlock her door and enter her residence to get away from the suspect. The suspect grabbed Ulrich's butt, and then he grabbed at her chest/shirt, scratching her upper chest. Ulrich screamed and the suspect fled down the stairs. This allowed Ulrich to enter her residence. From a window Ulrich saw a black sedan exit the parking lot on the northwest side of the building on to Meeting Place. She did not see the suspect get in to the car. Ulrich completed a sworn written statement. I used my body worn camera to take a picture of the scratch on Ulrich's chest.

Ofc. Walter 18799 met with witness Michele Abram. Abram stated around 0850 hours she in her kitchen and the window was open. Abram's residence shares a parking lot with the victim's residence and is directly across the parking lot from the victim's stairwell. The open kitchen window also faces this lot. Abram heard a woman screaming very loud "no, no, no". She looked out of her kitchen window and saw the suspect run from the stairwell and enter the drivers side of a black sedan. Abram said the logo on the vehicle appeared to be a Nissan logo and she believes the model of the vehicle was possibly an Altima or Maxima. The vehicle was parked in the driveway of this parking lot by the victim's apartment. Abram's stated "the vehicle did not drive away in a big hurry - no loud burn out noises". She also said she did not notice any stickers or any other identifiable features on the vehicle. The vehicle left the parking lot turning right on to Meeting Place and then turning right on to Lakemont Ave. Abram described the suspect as a slender and fit looking black male under 30 years of age, with a low haircut and wearing a red/burgundy top. She completed a sworn written statement.

CID Sgt. Edwards 14912 and Det. Hall 16126 were notified about this incident.

CSI Karen Livengood 11221 processed the scene.

The victim did not give anyone permission to do this and wishes to press charges.

Detective Y. Hall (16126) of the Orlando Police Department, was assigned this case for further investigation. Officer E. Young was the primary patrol officer who responded to the scene and provided a report which stated the following:

On 03-18-18 at about 0905 hours, Officer Young 11326 was dispatched to
to investigate an over with sex crime.

He contacted victim Birte Ulrich, who stated on this date at about 0855 hours, she was outside of her apartment building walking her dog. She returned to her building and walked up the external stairwell on the northwest side to her apartment on the second floor. Her residence is the first apartment by the stairs on the second floor. When she arrived at the second floor, she felt a light touch on her shoulder. She turned around and saw the suspect, an unknown black male about 20 to 30 years of age, about 5'10", short hair with a round face, average build wearing black jeans, a black zipper jacket and a red shirt underneath. He motioned with his head for the victim to look down. She looked down and saw the suspect's pants were undone, his penis was exposed and he was masturbating. Ulrich turned to unlock her door and enter her residence to get away from the suspect. The suspect grabbed Ulrich's butt, and then he grabbed at her chest/shirt, scratching her upper chest. Ulrich screamed and the suspect fled down the stairs. This allowed Ulrich to enter her residence. From a window Ulrich saw a black sedan exit the parking lot on the northwest side of the building on to Meeting Place. She did not see the suspect get in to the car. Ulrich completed a sworn written statement. I used my body worn camera to take a picture of the scratch on Ulrich's chest.

Officer Walter 18799 met with witness Michele Abram. Abram stated around 0850 hours she in her kitchen and the window was open. Abram's residence shares a parking lot with the victim's residence and is directly across the parking lot from the victim's stairwell. The open kitchen window also faces this lot. Abram heard a woman screaming very loud "no, no, no". She looked out of her kitchen window and saw the suspect run from the stairwell and enter the driver's side of a black sedan. Abram said the logo on the vehicle appeared to be a Nissan logo and she believes the model of the vehicle was possibly an Altima or Maxima. The vehicle was parked in the driveway of this parking lot by the victim's apartment. Abram's stated "the vehicle did not drive away in a big hurry - no loud burn out noises". She also said she did not notice any stickers or any other identifiable features on the vehicle. The vehicle left the parking lot turning right on to Meeting Place and then turning right on to Lakemont Ave. Abram described the suspect as a slender and fit looking black male under 30 years of age, with a low haircut and wearing a red/burgundy top. She completed a sworn written statement.

CID Sgt. Edwards 14912 and Det. Hall 16126 were notified about this incident.

CSI Karen Livengood 11221 processed the scene.

The victim did not give anyone permission to do this and wishes to press charges.

After being notified about this case, Detective Hall of the Orlando Police Department, remembered a similar case, with a similar suspect description, reference Orlando Police case number 2018-66025. Master Police Officer J. Williamson took the initial report and stated the following:

On 2/16/2018, at 1450 hours, Officer Williamson (10759), and Officer Columbo (18967) responded to the B Garage level P1 in response to a 911 call. They received information from dispatch that the caller did not want to meet and that a black male had approached the callers vehicle and that the caller drove off. They responded and drove around level P1 and did not find any suspicious people. They cleared the call as a "g" service call, no report required.

Approximately one hour later, the communication center asked to transfer a telephone call to Officer's Williamson's cell phone. Officer Williamson answered the phone and spoke to the caller who identified herself as Chelsea Bachman. Bachman stated she had called 911 to report an exposure of sexual organs incident and wanted to add the license plate number to the call. He told Bachman He was not aware that she had been a victim of a crime, but that he would respond to her home and obtain a statement.

At approximately 1545 hours, Officer Columbo and Officer Williamson responded to and met with Bachman who offered the following sworn written statement.

Bachman stated she flew into the Orlando International Airport on Delta Flight # 1058 and walked to her car, which was parked on the 2nd floor of the B garage. Bachman stated she observed a Black Nissan Altima drive slowly past her as she walked. Bachman stated the car drove past her vehicle which she found suspicious feeling as if the driver was looking to take her parking spot the car would have stopped behind her vehicle. Bachman was concerned for her safety so she entered her car and locked the doors. Bachman stated she turned her car on and as she looked over to back up she noticed a black male standing at her passenger window with his penis exposed and masturbating. Bachman turned away stunned, at which time she saw the black Altima drive off. Bachman called 911 and drove out of the garage. As she pulled up to the toll plaza to pay her parking fee receipt #0312673 Cashier 79 she noticed a black Altima in front of her and she snapped a photo of the tag. The driver of the Altima paid his parking fee and drove off OIA properly. Bachman then pulled forward and asked the cashier if the driver of the Altima was a black male. The cashier stated that he was a black male and that he seemed to be looking back a lot. Bachman told the cashier what happened as well as the dispatcher. Bachman stated she didn't give anyone permission to expose themselves and desires prosecution.

Bachman provided Officer Williamson a photo of the Altima bearing Florida tag # 474MWP. He ran the Florida tag, which came back to Harry Lee Goldsboro II. Goldsboro did match the age range and description of the person Bachman described. He was unable to create a photo lineup, as he do not have a mobile computer assigned to my vehicle. He did check with Delta Airlines and Goldsboro II did not fly on the flight today. Goldsboro's only activity in Finder is a 2012 child abuse case.

Bachman is not able to say she saw the suspect enter or exit the Altima, however it is the only plausible theory based on the circumstances.

Detective Yong Hall was notified and this case will be forwarded to CID for follow-up investigation.

On 3/15/18, the possible suspect at the airport was identified as Harry Goldsboro. The description from both cases were very similar. Officer I. Lay and Detective Hall completed a photo lineup with the victim, Bachman, of the airport, but she was unable to pick out Goldsboro. Bachman stated she was afraid of retaliation and did not want to pursue with her case. Bachman stated it happened so long ago, she was not able to positively identify the suspect.

On 3/19/18, a day after the incident, Det. Hall completed a photo line-up with victim, Ulrich. Officer W. Houghton 31147 conducted the photo line-up, and Ulrich immediately picked out picture number 3. Picture number 3 is Harry Goldsboro.

In an interview with Ulrich, she stated she never saw the suspect until she was at her front door attempting to unlock her door. She felt a light tap on her shoulder, and Goldsboro gestured with his eyes to look down. When she looked down, he had his pants un-done and his penis was exposed. The victim stated Goldsboro's penis did not look erect, and he started to stroke his penis. The victim stated she attempted turn around and get inside her apartment in a panic, and that is when Goldsboro grabbed her by the upper body and pulled her towards him, preventing her from her ability to get away. The victim stated when she turned around, he grabbed her buttock and she tried to knock his hands away. During this struggle, the victim vigorously turned and swung her arms. Goldsboro scratched the victim's chest as he was attempting to grope the victim's chest. The victim started to yell for help, which brought others attention to the area. Goldsboro took flight down the stairs, got into a black four-door sedan, and left the area.

Ulrich stated she feared for her life and felt if she did not yell for help, the suspect would have forced her into the apartment and sexually batter her. She stated she was just so scared, she did not know what was going on. She stated once she was able to get into her apartment, she called the police immediately.

Officers spoke with a neighbor, Michele Abram, who stated she was in her kitchen when she heard someone screaming. Abram looked out the window and saw a black male running into what appeared to be a Nissan-Altima or Maxima.

On 3/19/18, Detective Hall received a call from Detective J. Dalles, Winter Park Police Department. Detective Dalles stated he had an exposure case that was similar to the one at the OIA. The Winter Park case number is 2018-46000364. In Winter Parks case, the victim was walking her dog down the street, when a black Nissan Altima pulled up, blocked her path, and a black male got out of the vehicle. The victim stated the black male had his penis out and started to masturbate in front of her. When the victim started to yell for help, the suspect got back into his vehicle and fled the scene.

On 3/18/18, there were two similar incidents with the same suspect description. Detective Hall plugged in the address and, to Minnesota Avenue and Azulea Lane, Winter Park, into Google Map. The Winter Park location is just northwest of the Orlando location. The time to drive is 11 minutes and is 3.5 miles apart.

Based on the evidence, the level of violence that has increased, it appears the suspect is getting emboldened and gaining confidence each incident. Probable cause exist to charge Harry Goldsboro, with false imprisonment 787.02(2), battery 784.03, and exposure of sexual organs 800.03.

The arresting officer, (Detective Hall) of Orlando Police Department has reported to your affiant that he had plainly observed the men's red incolor shirt, black zipper jacket, and black pants inside and on the rear seat vehicle to be searched at the time that the defendant was arrested, prior to vehicle being secured and towed. The defendant utilized his 2012 Black Nissan Altima bearing Florida registration number 474MWP in each incident described above. The defendant's vehicle was impounded and towed via City of Melbourne wrecker service from the defendant's residence (1333 Blazen Ridge Court, Melbourne Florida, to secure storage at 701 South Babcock Street (Melbourne Police Department Criminal Investigations), Melbourne Florida.

THEREFORE, Your Affiant requests that a search be made of said vehicle, as Your Affiant believes that evidence relevant to proving a felony, to wit: 794.011(4)(C)-1, false imprisonment 787.02(2), battery 784.03-7, and exposure of sexual organs 800.03, is being kept, stored, and/or utilized on, in, at, or within the above-described vehicle. Your Affiant requests authorization to seize any Property (described above) found in, on, or within said vehicle.

WHEREFORE, Your Affiant makes this Affidavit and prays for the issuance of a Search Warrant in due form of law for the search of the above-described vehicle for said Property, and for the seizure and safe keeping thereof, subject to the order of this Honorable court, by the duly constituted officers of the law.


Detective Dennis Higgins #375
Melbourne Police Department
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME THIS 22nd DAY OF MARCH, A.D. 2018 BY
Detective Dennis Higgins (Affiant) WHO IS PERSONALLY KNOWN TO ME.


SWORN LAW ENFORCEMENT OFFICER SERGEANT MICHAEL CASEY
BREVARD COUNTY, FLORIDA



WINTER PARK POLICE DEPARTMENT

AFFIDAVIT OF EYEWITNESS IDENTIFICATION

Affidavit Date: 3/19/2018 Time: _____ Offense: Exposure of Sexual Organs
 Date of Offense: 3/18/2018 Time: 0915 hrs Case Number: 201846000364

EYEWITNESS

Name (first, middle, last): Jennifer Woodall Lyons
 Home Address: 936 Garden Dr. Winter Park, FL 32789
 Work Address: _____
 DOB: 3-28-72 Race: white Gender: Female

INSTRUCTIONS

You are being asked to look at a group of photographs.

You are not obligated to identify anyone. The person of interest may or may not be in the line-up presented. It is just as important to clear innocent persons from suspicion as to identify guilty parties.

Individuals presented in these photographs may not appear as they did on the date of the incident. Keep in mind features such as hair style, facial hair and an individual's weight are subject to change.

Since this is an ongoing investigation, you should not discuss the identification procedures or results.

Do you understand these instructions? ☒ YES ☐ NO Initial: JL

WITNESS STATEMENT

I, Jennifer Lyons do hereby voluntarily make the following statement without threat, coercion, offer of benefit or favor by any persons whomsoever.

On the 19 day of March, 20 18 at approximately 4:00 a.m. ☐ p.m. hours, I was shown a photographic line-up (# A) consisting of 6 photographs and I identified photograph number 3 as the person who appears most similar to the person who was involved in the incident on 3-18-18 involving exposing himself in public and masturbating.

I swear/affirm the above and/or attached statements are correct and true.

Jennifer Lyons
 SIGNATURE OF EYEWITNESS

SWORN TO AND SUBSCRIBED TO ME THIS 19 DAY OF March, 20 18

☐ PERSONALLY KNOWN TO ME OR ☒ PRODUCED IDENTIFICATION: TYPE OF ID FLD 1520-439-12-008-0
☒ LAW ENFORCEMENT OFFICER OR ☐ NOTARY PUBLIC SIGNATURE: Amy G. 10/2/18



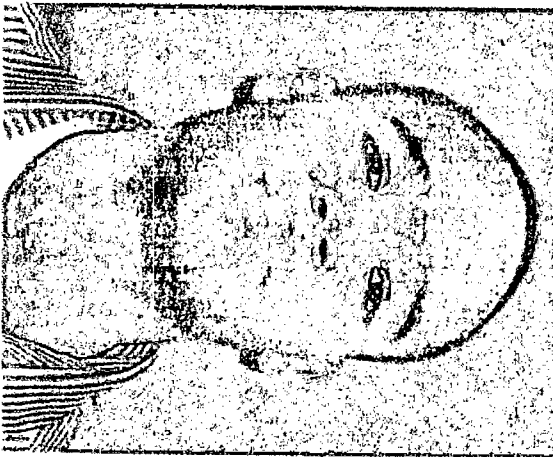
4

RF



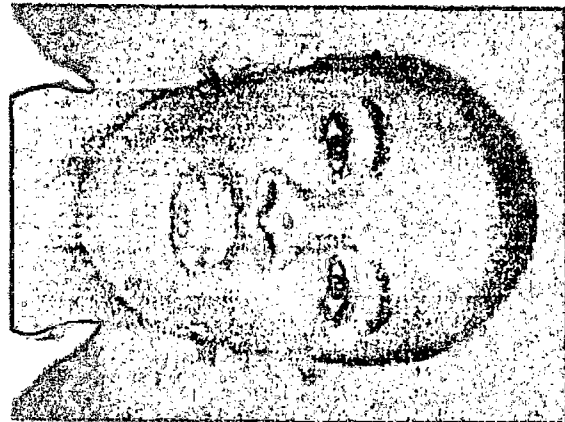
1

RF



5

RF



2

RF



6

RF



3

James Ryan



WINTER PARK POLICE DEPARTMENT

AFFIDAVIT OF EYEWITNESS IDENTIFICATION

Affidavit Date: 3/23/2018 Time: 1604 hrs Offense: Exposure of Sexual Organs
 Date of Offense: 3/18/2018 Time: 0830 Hrs Case Number: 201846000364

EYEWITNESS News report had aired already and showed the exact same picture.

Name (first, middle, last): Judith Ann Baldyga

Home Address: 5221 Hammock Cir, Saint Cloud, FL 34771

Work Address: _____

DOB: 1/27/1957 Race: White Gender: Female

INSTRUCTIONS

You are being asked to look at a group of photographs.

You are not obligated to identify anyone. The person of interest may or may not be in the line-up presented. It is just as important to clear innocent persons from suspicion as to identify guilty parties.

Individuals presented in these photographs may not appear as they did on the date of the incident. Keep in mind features such as hair style, facial hair and an individual's weight are subject to change.

Since this is an ongoing investigation, you should not discuss the identification procedures or results.

Do you understand these instructions? ☒ YES ☐ NO Initial: JB

WITNESS STATEMENT

I, Judith A Baldyga do hereby voluntarily make the following statement without threat, coercion, offer of benefit or favor by any persons whomsoever.

On the 23 day of March, 20 18 at approximately 4:15 ☐ a.m. ☒ p.m. hours, I was shown a photographic line-up (# B) consisting of 6 photographs and I identified photograph number 2 as the person who walked up to my front door at 451 Fairfax and was masturbating.

I swear/affirm the above and/or attached statements are correct and true.

Judith A Baldyga
SIGNATURE OF EYEWITNESS

SWORN TO AND SUBSCRIBED TO ME THIS 23rd DAY OF March, 20 18

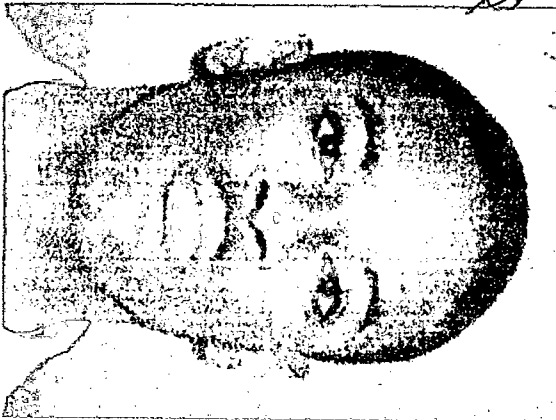
☐ PERSONALLY KNOWN TO ME OR ☒ PRODUCED IDENTIFICATION: TYPE OF ID FL DL B432421595270

☒ LAW ENFORCEMENT OFFICER OR ☐ NOTARY PUBLIC SIGNATURE: D. B. P. 55



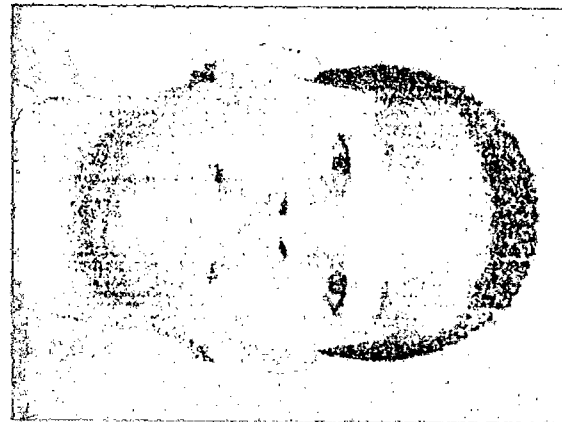
3/23/18

1



3/23/18

4



2

3/23/18

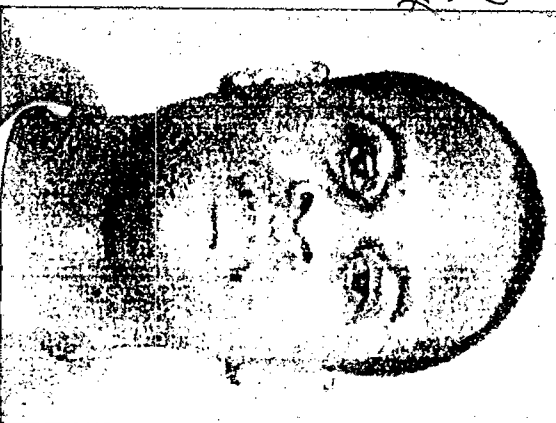


5



3/23/18

3



3/23/18

6

ATTACHMENT B

Photo Line-up Administration and Witness Instructions

Case Number: 2018-108884 Date/Time: 3/19/18 1950
 Witness Name: V. Hall 1424 Independent Administrator Name/ID: Houghton 31147
 Line-up Number: _____ Line-up reviewed by: DET. L. FIORINO 11761

1. Where was this lineup conducted? 2. Why was the computer system not used? 3. Was Bob Hall present?

Prior to presenting the photo line-up, the witness provided a written/audio-recorded statement describing the suspect of this criminal investigation.

4. Where is the audio recording?

WK

Independent Administrator's Initials

Prior to presenting the photo line-up, I read "verbatim" the witness instructions to the witness. The witness indicated he/she understood the instructions.

WK

Independent Administrator's Initials

PHOTO LINE-UP INSTRUCTIONS TO THE WITNESS:

"Please be aware that I am an Independent administrator and I do not know the identity of the individual being investigated. It is just as important to clear innocent persons from suspicion as it is to identify guilty parties. Regardless of whether you make an identification, we will continue to investigate this incident. With that in mind, I am going to show you six photos arranged so they may be simultaneously viewed. This group of photos may or may not contain a picture of the person who committed the crime now being investigated. Keep in mind that hairstyles, beards, and moustaches may easily be changed. The photos may not always depict the true complexion of a person - it may be lighter or darker than shown in the photo. Pay no attention to the order of the photos or markings and/or numbers that may appear on the photos, or to any differences in the type or style of photographs. Take your time; when you have looked at all the photos, tell me whether or not you see the person who committed the crime. You should not feel compelled to make an identification. If you do identify someone, you will circle and initial that person on the line-up. Please remember that since this is an on-going investigation, you are not permitted to discuss this identification procedure with anyone other than law enforcement or legal counsel."

I understand the photo line-up instructions and have been provided a copy of this form.

Birk Ulrich

Witness's Signature

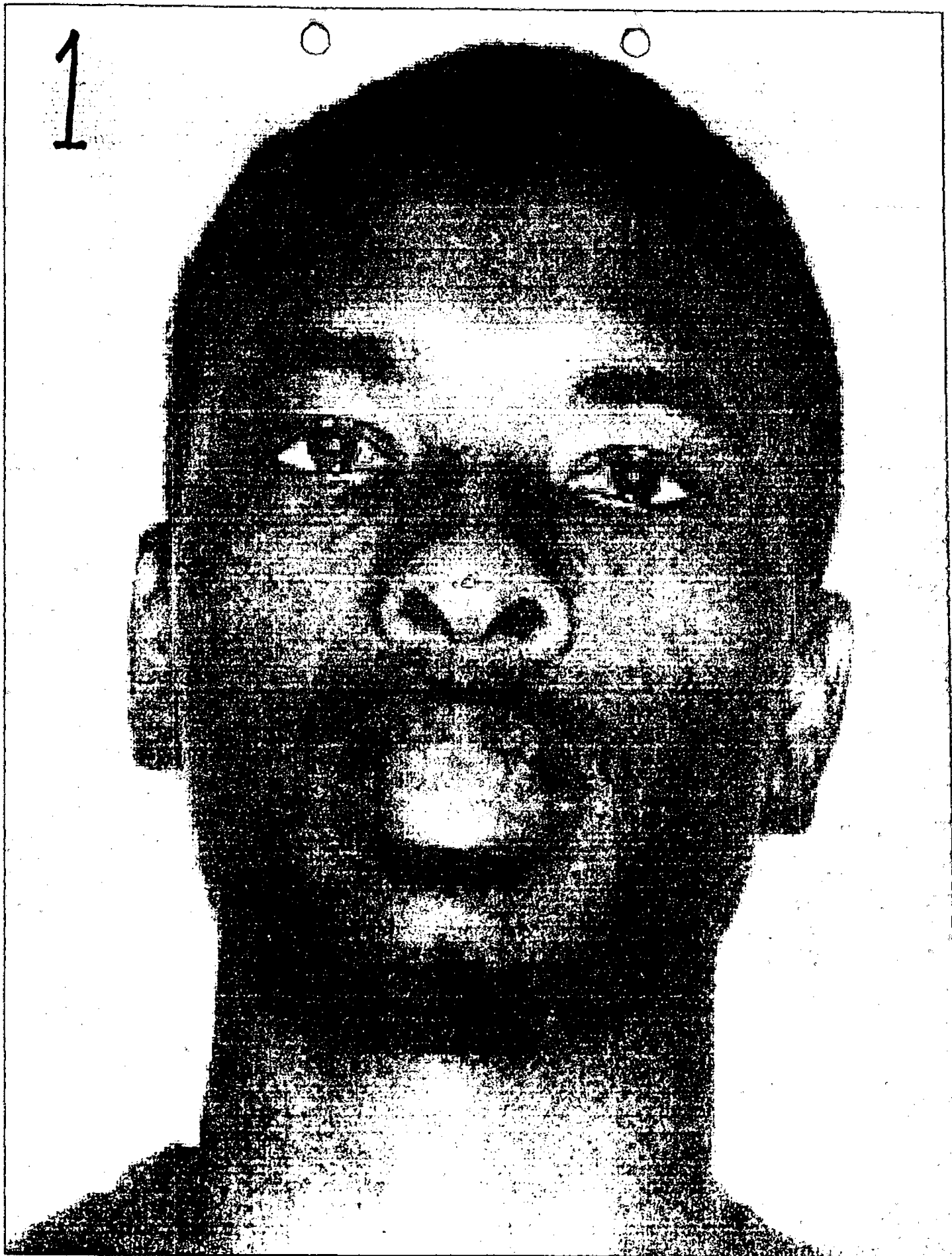
After the photo lineup, the witness provided a written statement or an audio recorded statement describing his/her identification or non-identification.

[Signature]

Independent Administrator's Signature

This form is to be filed in the case package. If the witness refuses to provide a sworn statement, indicate so in the incident report.

1



1. Facial hair 2. no curly hair 3. No military uniform 4. darker complexion 5. slim face

2



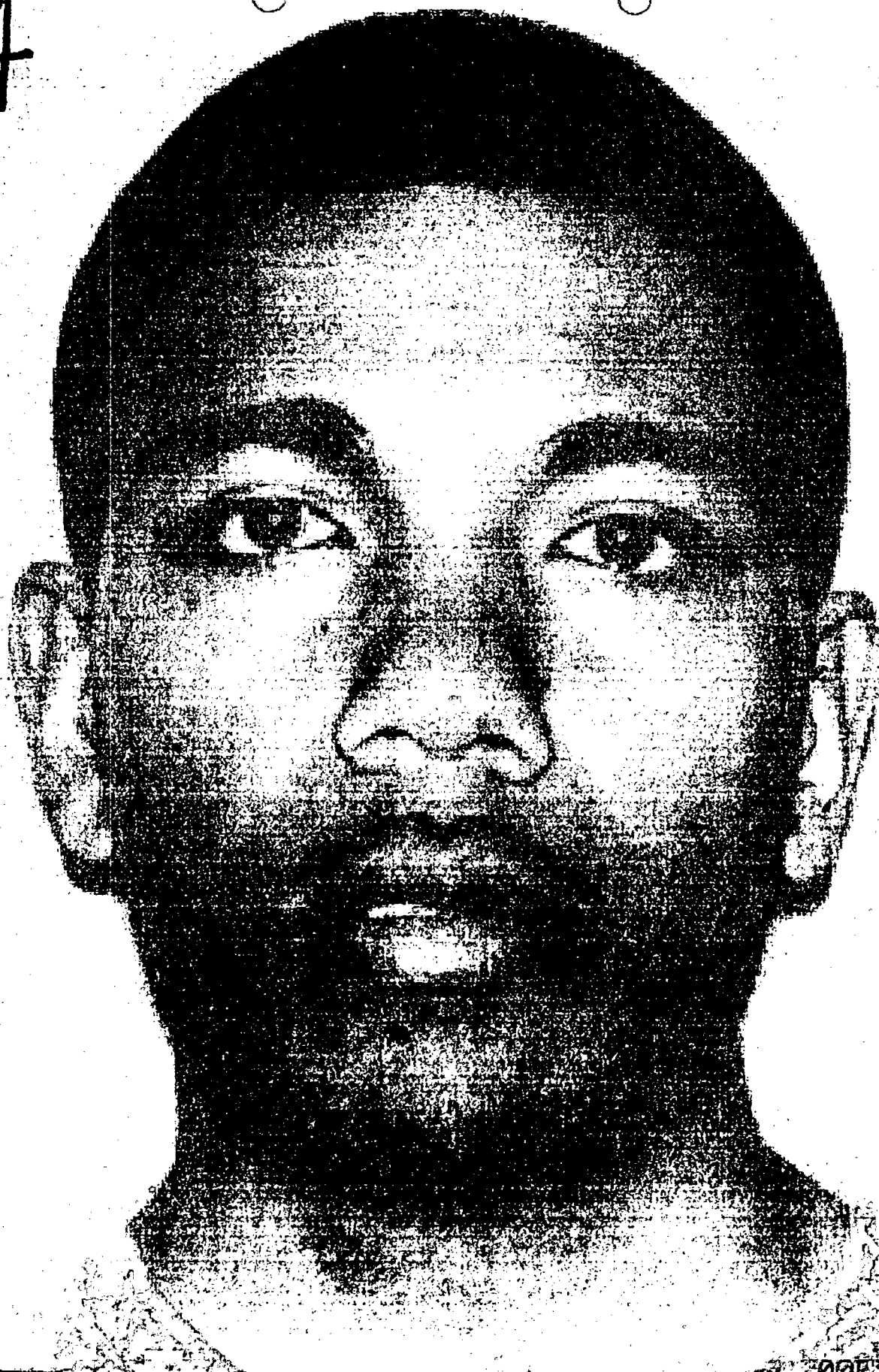
1. No Facial hair 2. No curly hair 3. no military uniform 4. darker complexion 5. earrings 6. round Face
48

3^{B1}



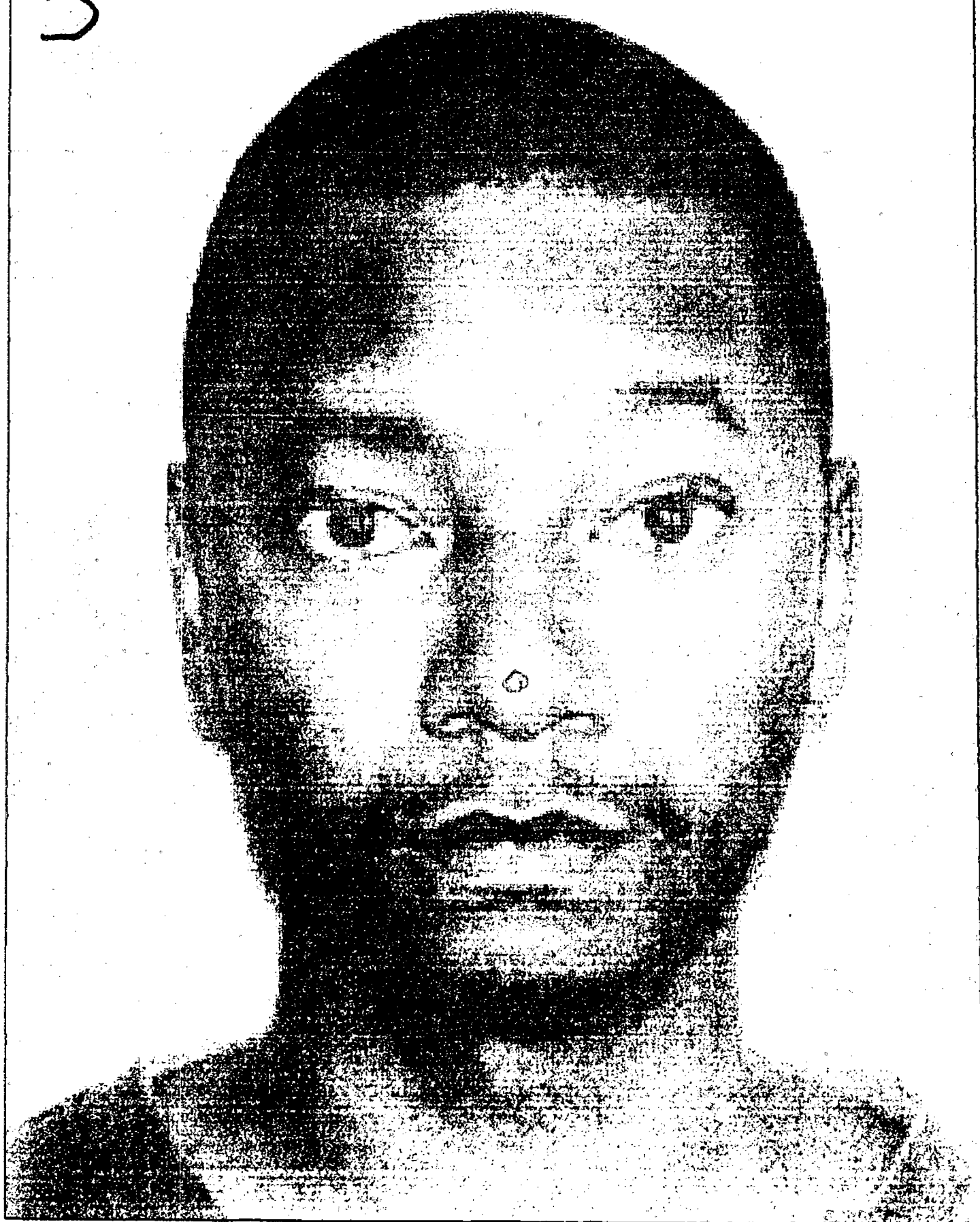
1. No facial hair 2. Military uniform (report stated I was in the military) 3. Only one with short curly hair 4. Picture is from 2015
5. Same photo used in news reports 6. lighter complexion

4



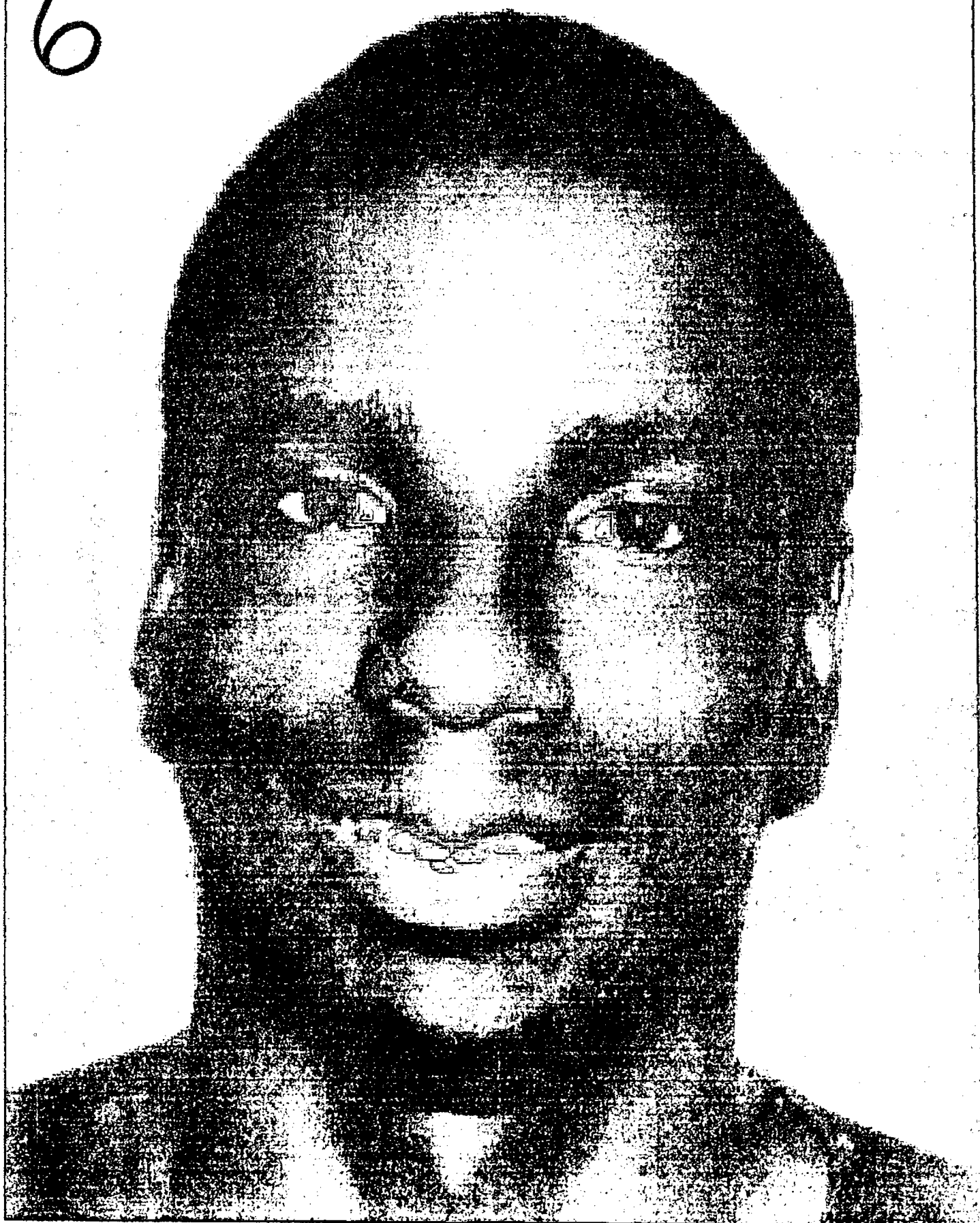
1. Facial hair 2. no curly hair 3. no military uniform 4. light-skinned 5. round face

5



1. Facial hair 2. No curly hair 3. no military uniform 4. slim face 5. light complexion

6



1. Facial hair 2. No curly hair 3. no military uniform 4. dark complexion 5. slim face 6. smiling

CASE # 2018-CF-004010-A-O

IN THE CIRCUIT COURT OF
ORANGE COUNTY

STATE OF FLORIDA

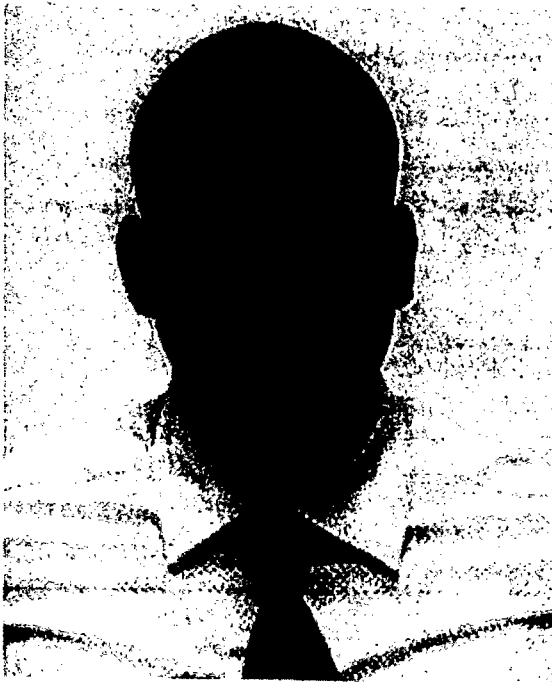
**VIOLATION OF PROBATION
WARRANT**

ORDER TO TAKE INTO CUSTODY

STATE OF FLORIDA

VS.

HARRY LEE GOLDSBORO II



Arrested on 8/12/2018

THIS WARRANT WAS RECEIVED BY THIS

DEPARTMENT AT _____ COUNTY

FLORIDA ON THE _____ DAY OF _____,

A.D. 20_____, AND EXECUTED IN _____

COUNTY, FLORIDA ON THE _____ DAY OF

_____, A.D. 20_____, BY ARRESTING THE

WITHIN NAMED _____

ARRESTING OFFICER _____

DEPARTMENT _____

DATE AND TIME OF SERVICE _____

PLACE OF SERVICE _____

IDENTIFYING DATA

AKA: _____

RACE BL SEX M DOB 04/04/1983

SMT _____

HGT 5'11"

WGT 195

EYES BRO

HAIR BL

SS # 600-52-6365

DL # G432372831340

CURRENT LOCATION/LAST KNOWN ADDRESS Suburban

Extended Stay 1125 Airport Blvd Room 119, Melbourne, FL

32901, Homeless

Phone: (Home) _____ (Cell) 321-704-0108

Residing with/relationship: Self

Employer name/phone: None

Place of birth: Wilmington, Delaware

Vehicle info: _____

History of violence:

Yes No

☐

☒

Prior resisting arrest:

☐

☒

Prior use or possession of weapon

☐

☒

Interstate Compact case:

☐

☒

(If yes, signed copy of "Offender Application for Interstate Compact Transfer" is attached)

Osceola County
Corrections Department

HIGH MEDIUM



GOLDSBORO, HARRY LEE

ID: 1155554 Sex: MALE
DOB: 4/14/1983 Race: Black

February 2019

h5

**Additional material
from this filing is
available in the
Clerk's Office.**