

**IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA**

STATE OF FLORIDA,

Plaintiff,

CASE NO.: 2012-CF-3438

v.

ARNEY ARANGO,

Defendant.

DEFENDANT’S VERIFIED MOTION FOR POST-CONVICTION RELIEF

COMES NOW Defendant, ARNEY ARANGO, (“Mr. Arango”) by and through undersigned counsel and pursuant to the Florida Rules of Criminal Procedure, Rule 3.850, and hereby moves this Court to set aside and vacate his convictions in the above styled case, and in support of this motion, states the following:

PRELIMINARY STATEMENT

1. Mr. Arango now moves to vacate the convictions entered against him on November 30, 2012 and December 7, 2012 in this Court on the following grounds: (1) pursuant to 3.850(1), in that the conviction was unconstitutional because of ineffective assistance of counsel, and (2) pursuant to 3.850(5) the plea was unknowing and involuntary because the defendant was not advised of the direct consequences of his plea.

2. This Court has jurisdiction over this matter pursuant to § 26.012 of the Florida Statutes.

3. The following exhibits are attached to this motion and incorporated herein.

Exhibit A - Transcripts of Plea and Sentencing November 30, 2012

Exhibit B - Court Minutes and Order of Plea/Sentencing November 30, 2012

Exhibit C – Notice of Sex Offender Registration from Florida Department of Law Enforcement dated February 5, 2013

Exhibit D – Notice of Offenders Responsibilities dated February 5, 2013

Exhibit E – Printout of FDLE Sexual Offender Registration dated July 8, 2013

Exhibit F – Letter from Canyon Lakes Homeowner’s Association dated June 20, 2013

Exhibit G – Letter from Sachs, Sax, Caplan, Attorneys at Law, dated May 28, 2013

Exhibit H – Letter from the Law Firm of Frank, Weinberg, Black P.L., dated July 8, 2013

STATEMENT OF FACTS

4. On March 16, 2012, Mr. Arango was charged by Information in Orange County case number 2012-CF-003438-A-O, and thereafter arrested on or about April 4, 2012 pursuant to a warrant for his arrest. The arrest and the charges arose out of allegations made by two co-workers at a Publix Supermarket where Mr. Arango and the co-workers worked. It is alleged that Mr. Arango committed the offenses of false imprisonment, battery, and stalking on two of his co-workers sometime between December, 2010 and October, 2011. All of these alleged events occurred in Orange County, Florida.

5. Mr. Arango was charged with two counts of False Imprisonment pursuant to Florida Statute §787.02(1), a third degree felony (Count #1 and #2); three counts of Battery pursuant to Florida Statute §784.03(1)(A)(1), a first degree misdemeanor; (Counts #3-5), and one count of Stalking pursuant to Florida Statute §784.048(2), a first degree misdemeanor (Count #6).

6. Mr. Arango retained the services of Jimmie David Gentle, Esq., to represent him in this case. Mr. Gentle negotiated a disposition of the case whereby Mr. Arango would enter pleas of *nolo contendere* on Count #1, Count #3, Count #4, and Count #5.

7. On November 30, 2013, Mr. Arango appeared before the Honorable Mike Murphy and entered pleas of *nolo contendere* on Count #1, Count #3, Count #4, and Count #5. Neither the Plea Agreement nor Court specified that as a result of entering the plea, Mr. Arango would be required to register as a sex offender. In fact, during an exchange with one of the victim’s father,

the Court advised the father that “there’s a requirement under the law that people who plea to – are found guilty of felonies, are required to register locally with the Sheriff’s Office. (Exhibit A, p. 12). During this hearing, the Court further inquired of the State as follows:

THE COURT: The – all right. So I take it that you’ve explained to the families and the victims why it is not charged as a sex –

MR. MILLS: Right.

THE COURT: -- offense?

MR. MILLS: Yes, sir. **And they understand he’s not going to be a sex offender.**

(Exhibit A, pp. 16-17) (emphasis added)

8. At no time before November 30, 2012 did counsel ever advise Mr. Arango that he would be required to register as a sex offender if he entered a plea of guilty or no contest to any of the charges contained within the Information, specifically, to Counts # 1 or #2, False Imprisonment pursuant to Florida Statute § 787.02(1).

9. At no time during the November 30, 2012 hearing did either the Court or the State advise Mr. Arango that he would be required to register as a sex offender if he entered a plea of guilty or no contest to any of the charges contained within the Information, specifically, to Counts # 1 or #2, False Imprisonment pursuant to Florida Statute §787.02(1).

10. After accepting his pleas, the State entered *nolle prosequi* to Counts 2 and 6. The Court withheld adjudication on Count # 1 and adjudicated Mr. Arango guilty on Counts # 3-5. Mr. Arango was then sentenced on Count # 1 to two days of confinement in county jail with credit for time served, four years of state probation and restitution. On Count # 3, Mr. Arango was sentenced to two days of confinement in county jail to run concurrent to Case # 2012-CF-003438-A-O and three hundred and sixty days of probation to run consecutive to community control. On Count # 4, Mr. Arango was sentenced to two days of confinement to run concurrent to Case # 2012-CF-003438-A-O and three hundred and sixty days of probation to run consecutive to community control.

11. After sentencing, Mr. Arango moved to South Florida to live with family members, and his probation and Community Control were transferred to Broward County.

12. On February 5, 2013, the Florida Department of Law Enforcement sent Mr. Arango a letter notifying him that he was required to register as a sex offender due to the November 30, 2012 conviction of False Imprisonment. (Exhibit C).

13. On or about February 5, 2013, a female detective from the Broward County Sheriff's Office called Mr. Arango on his cell phone at approximately 9:00 a.m. before he went to report in to Probation and told him that he had to register as sex offender. Mr. Arango told the detective that he was not convicted of a felony or of a sex offense, and did not understand why he had to register. The detective advised him that FDLE had told her that Mr. Arango was required to register, and to inquire with his probation officer. She warned him that if he did not immediately register as a sex offender, he would be subject to arrest and prosecution.

14. Mr. Arango immediately reported to Probation, and Probation Officer Rick Nobles in the Pompano office also advised Mr. Arango that if he did not immediately register as a sex offender, he would be subject to arrest and prosecution. Thereafter, Mr. Arango registered as a sex offender as directed by the Broward County Sheriff and Probation the same day. (Exhibit D, E).

15. Mr. Arango contacted his original attorney to inquire about this requirement, and was told that his name would be removed from the registry after counsel filed a motion. No such motion has been filed.

16. On or about May 28, 2013, Elconides J. Arango, a family member with whom Mr. Arango had resided, received a notice of violation from the Canyon Lakes Homeowner's Association, advising him that Mr. Arango's presence in the community violated the terms of the HOA. (Exhibit E).

17. Thereafter, Elconides J. Arango received a letter from a law firm representing Canyon Lakes on or about May 28, 2013, requiring him to eject Mr. Arango from the community. (Exhibit F).

18. Mr. Arango then went to live with his other uncle and his aunt, Nodier and Brenda Arango, who likewise received a letter dated July 8, 2013 requiring them to evict Mr. Arango because of his status as a registered sex offender. (Exhibit G).

19. Since being required to register as a sex offender, Mr. Arango has been unable to maintain a permanent residence because he has continually been evicted due to sex offender classification.

20. This is Mr. Arango's first motion for post-conviction relief pursuant to Rule 3.850 of the Florida Rules of Criminal Procedure filed in this matter.

21. This motion is timely filed, as Mr. Arango was sentenced on November 30, 2012 for Counts 1, 3 and 4 and sentenced on December 7, 2012 for Count 5.

22. Mr. Arango did not file a direct appeal in this case because he did not know he would be required to register as a sex offender until his time to file a direct appeal had expired.

ARGUMENT

I. MR. ARANGO'S PLEA WAS IN VIOLATION OF THE UNITED STATES CONSTITUTION AND THE FLORIDA CONSTITUTION WHERE IT WAS ENTERED INVOLUNTARILY AND UNKNOWINGLY BECAUSE HE WAS NEVER ADVISED OF THE MANDATORY SEX OFFENDER CLASSIFICATION.

23. In *Brady v. United States*, 397 U.S. 753 (1970), the United States Supreme Court set forth a Constitutional standard for determining whether a guilty plea was voluntary:

A plea of guilty entered by one fully aware of the direct consequences, including the actual value of any commitments made to him by the court, prosecutor, or his own counsel, must stand unless induced by threats (or promises to discontinue improper harassment), misrepresentation (including unfulfilled or unfulfillable promises), or perhaps by promises that are by their nature improper as having no proper relationship to the prosecutor's business (e.g. bribes).

Brady at 754 (citing *Shelton v. United States*, 242 F.2d 101, 115 (5th Cir. 1957)).

24. A guilty plea operates as a waiver of valuable Constitutional rights and is valid only if done voluntarily, knowingly, and intelligently, with sufficient awareness of the relevant circumstances and direct consequences.¹ *Bradshaw v. Stumpf*, 545 U.S. 175, 183 (2005); *Brady*, 397 U.S. at 748. It is beyond cavil that a trial court has the duty to advise a criminal defendant who pleads guilty of the direct consequences of his plea, and that the failure to do so renders a guilty plea invalid. *See Brady*, 397 U.S. 753; *Bradshaw*, 545 U.S. 175; *United States v. Ruiz*, 536 U.S. 622, 629 (2002); *Jells v. Ohio*, 498 U.S. 1111 (1991); *Boykin v. Alabama*, 395 U.S. 238, 242-243 (1969), *Henderson v. Morgan*, 426 U.S. 637 (1976); *Santobello v. New York*, 404 U.S. 257 (1971); *McMann v. Richardson*, 397 U.S. 759 (1970); *see also Lane v. Williams*, 455 U.S. 624 (1982) (assuming parole to be a direct consequence of a felony conviction).

A. Mandatory Sex Offender Classification Is A Severe Penalty And Mr. Arango Should Have Been Advised That He Would Be Classified As A Sex Offender As A Result of His Plea.

25. The law is well settled that defendants must be advised of severe penalties intimately related to and directly resulting from the criminal process prior to entering a knowing and voluntary plea. *Padilla v. Kentucky*, 559 U.S. 356 (2010) (abrogating *Commonwealth v. Fuartado*, 170 S.W.3d 384 (2005)); *see also United States v. Gonzalez*, 202 F.3d 20 (1st Cir. 2000); *United States v. Del Rosario*, 902 F.2d 55 (D.C. Cir. 1990); *United States v. Yearwood*, 863 F.2d 6 (4th Cir. 1988); *Santos-Sanchez v. United States*, 548 F.3d 327 (5th Cir. 2008); *Broomes v. Ashcroft*, 358 F.3d 1251; *United States v. Campbell*, 778 F.2d 764; *Oyekoya v. State*, 558 So.2d 990 (Ala. Crim. App. 1989); *State v. Rosas*, 183 Ariz. 421, 904 P.2d 1245 (Ariz. Ct. App. 1995); *State v. Montalban*, 810 So.2d 1106 (2002); *Commonwealth v. Frometa*, 520 Pa. 552, 555 A.2d 92 (1989)).

¹ A plea of guilty is equivalent to a plea of nolo contendere for purposes of establishing whether a person qualifies for mandatory sex offender registration. Florida Statutes § 944.607(1)(b).

26. In *Padilla v. Kentucky*, the United States Supreme Court overturned a Kentucky Supreme Court case which held that the risk of deportation was merely the collateral consequence of a plea not requiring that the defendant be advised of that risk. *Padilla v. Kentucky*, 253 S.W.3d 482, 483 (Ky. 2008).

27. Like the vast majority of other states, the Florida Supreme Court had previously defined mandatory sex offender classification as a collateral consequence to entering a plea in *State v. Partlow*, 840 So.2d 1040 (Fla. 2003). The *Partlow* Court compared sex offender registration with deportation requirements and relied heavily on that analogy in determining that sex offender status was a collateral consequence. See *Partlow*, 840 So.2d 1040 (citing *State v. Ginebra*, 511 So.2d 960 (Fla. 1987) (holding that immigrant defendants need not be advised of the risk of deportation prior to entering a plea because deportation was a collateral consequence)).

28. In 1993, however, the Florida Legislature abrogated the *Ginebra* decision by amending Rule 3.172(c) to require courts to inform defendants of potential deportation consequences. See *State v. DeAbreau*, 613 So.2d 453 (Fla. 1993) (dismissing review and noting that the rule change superseded *Ginebra*).

29. The *Partlow* Court, however, asserted that the rule amendment did not invalidate the reasoning in *Ginebra*. *Partlow* 840 So.2d at 1043; see also *Major v. State*, 814 So.2d 424, 428 (Fla. 2002) (noting amendment of rule 3.172(c), but expressly affirming that *Ginebra* correctly states the law regarding failure to advise of collateral consequences).

30. In 2010, the *Padilla* decision struck down the reasoning set forth in *Ginebra*, effectively abrogating the theoretical underpinnings upon which the *Partlow* decision had so heavily relied. *Padilla, supra*. The rationale in *Padilla* was that defendants should be informed of the risk of severe penalties, like deportation, even though the penalty is not a *per se* criminal sanction. *Padilla*, at 1481.

31. While it is true that *Padilla* dealt with the duty of counsel, rather than the duty of the courts, to inform a criminal defendant about deportation, the rationale employed by the Court in rejecting the direct / collateral consequence dichotomy applies with equal force in determining the voluntariness of a guilty plea where the court has failed to advise the defendant of sex offender registration requirements, which is also a civil penalty² “difficult to divorce from [a] conviction.” *Id.* (internal quotations marks omitted).

32. As the Florida Supreme Court noted in *Partlow*, there are several similarities between sex offender classification and deportation consequences which require that they be characterized similarly. Furthermore, the United States Supreme Court found that any such distinction is irrelevant when dealing with a “particularly severe ‘penalty,’” even though not a criminal sanction in the strict sense. *See Padilla*, at 365 (citing *Fong Yue Ting v. United States*, 149 U.S. 698, 740 (1983)).

The Supreme Court of Kentucky rejected *Padilla*'s ineffectiveness claim on the ground that the advice he sought about the risk of deportation concerned only collateral matters, *i.e.*, those matters not within the sentencing authority of the state trial court. In its view, “collateral consequences are outside the scope of representation required by the Sixth Amendment,” and, therefore, the “failure of defense counsel to advise the defendant of possible deportation consequences is not cognizable as a claim for ineffective assistance of counsel.” The Kentucky high court is far from alone in this view.

We, however, have never applied a distinction between direct and collateral consequences to define the scope of constitutionally “reasonable professional assistance” required under *Strickland*. Whether that distinction is appropriate is a question we need not consider in this case because of the unique nature of deportation.

We have long recognized that deportation is a particularly severe “penalty,” but it is not, in a strict sense, a criminal sanction. Although removal proceedings are civil in nature, deportation is

² Although registration is civil in nature, the failure to register is a crime, as are various other acts, such as failure to notify authorities of a change in address. Thus, there are criminal penalties intimately associated with the registration requirement.

nevertheless intimately related to the criminal process. Our law has enmeshed criminal convictions and the penalty of deportation for nearly a century. And, importantly, recent changes in our immigration law have made removal nearly an automatic result for a broad class of noncitizen offenders. **Thus, we find it “most difficult” to divorce the penalty from the conviction in the deportation context.** Moreover, we are quite confident that noncitizen defendants facing a risk of deportation for a particular offense find it even more difficult.

Deportation as a consequence of a criminal conviction is, because of its close connection to the criminal process, uniquely difficult to classify as either a direct or a collateral consequence. **The collateral versus direct distinction is thus ill suited to evaluating a *Strickland* claim concerning the specific risk of deportation.** We conclude that advice regarding deportation is not categorically removed from the ambit of the Sixth Amendment right to counsel. *Strickland* applies to Padilla's claim.

Padilla v. Kentucky, 559 U.S. 356, 364-66 (2010) (emphasis added) (citations omitted).

33. Statutorily, the sex offender registration requirement is also intimately related to the criminal process in that defendants who are charged with offenses listed under the sex offender statute are mandatorily required to register as a sex offender. Fla. Stat. § 944.607 (2012).

34. In the post-*Padilla* environment, few states have directly addressed this issue. However, the following excerpts from Michigan and New York are provided for guidance:

This Court found that while deportation and sex offender registration are “difficult to classify as direct or [] collateral,” counsel is required to advise a defendant of these consequences. Counsel, however, is not required to advise a defendant regarding a “disqualification from public benefits,” as it is a collateral or incidental consequence of a guilty plea.

People v. Bardwell, 306726, 2012 WL 1698366 (Mich. Ct. App. May 15, 2012).

35. Judge Carmen B. Ciparick of the New York Court of Appeals has opined that Due Process is violated when a criminal defense is not advised that they must register as a sex offender:

[W]e are confronted with a consequence that, though technically non-penal and not applied to every defendant, may result in a period of confinement lengthier than a defendant's prison sentence. In this sense ... it constitutes a potentially greater deprivation of liberty than the criminal sentence imposed, and is closer to a direct consequence than those traditionally considered collateral.

A trial court has a constitutional obligation to ensure that a defendant has a full understanding of what the plea connotes and its consequences. Due process requires that the record must be clear that the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant. While a trial court generally has not obligation to inform a defendant of collateral consequences, regardless of their severity, I believe a defendant cannot be said to knowingly and voluntarily forgo his right to trial if he does not know the full extent of his confinement that might result from his conviction. Freedom from bodily restraint is at the core of the liberty protected by the Due Process Clause. Moreover, in the vast majority of plea bargains the overwhelming consideration for the defendant is whether he will be imprisoned and for how long.

People v. Harnett, 16 N.Y.3d 200, 945 N.E.2d 439, 920 N.Y.S.2d 246 (2011) (Cipiarick dissenting) (internal citations and quotations omitted).

36. The Florida Supreme Court's determination that a defendant does not need to be advised of sex offender registration requirements is no longer valid law in light of *Padilla*. The distinction of collateral and direct consequences is irrelevant when dealing with particularly severe penalties closely related to the criminal process. Sex offender registration is a harsh and mandatory consequence in this case, of which Mr. Arango was required to be advised.

B. Mr. Arango's Was Affirmatively Misadvised That His Plea Would Directly Result in Mandatory Sex Offender Registration.

37. The Florida Legislature has mandated that, "a defendant convicted of False Imprisonment in violation of Florida Statute 787.02(1) is considered a sex offender." Fla. Stat. §944.607 (2012). By operation of law, Mr. Arango's requirement to register as a sex offender became mandatory upon his sentencing on November 30, 2012.

38. Mr. Arango believed he was not being convicted of False Imprisonment when the Court withheld adjudication. However, a “[c]onviction means a determination of guilt which is the result of a trial or **the entry of a plea of guilty or *nolo contendere*, regardless of whether adjudication is withheld.**” *Id.* at (1)(b) (emphasis added).

39. Furthermore, the State affirmatively misrepresented that Mr. Arango would not be classified as a sex offender. (Exhibit A at 16, 17). The Court asked the State if he had explained to the families that Mr. Arango was not being charged with a sex offense, and the State responded that the families knew that Mr. Arango would not be classified as a sex offender. *Id.*

40. Conversely, the Court took the time to explain to the victim’s father that Mr. Arango’s conviction would result in a permanent felony record requiring him to register with local Sheriff’s offices as a felon (not as a sex offender) and that this felony record would be with Mr. Arango for life.³ (Exhibit A at 11-13).

41. The Court also advised Mr. Arango that being adjudicated guilty of battery charges precluded him from having his record sealed. (Exhibit A at 27). Similar to sex offender classification, eligibility for record sealing is not a *per se* criminal sanction, yet Mr. Arango was advised of this consequence. Registering as a convicted sex offender is a much harsher, direct consequence, but Mr. Arango was never advised of it.

42. Accordingly, the judgment and sentence of Mr. Arango’s case should be vacated and set-aside as it is in violation of the United States and Florida Constitutions because it was entered involuntarily. At the very least, Mr. Arango is entitled to an evidentiary hearing on this motion, as the record does not refute his claim, but rather, supports his claim. *Doward*, 802 So. 2d at 518, *Randall v. State*, 885 So. 2d 932 (Fla. 5th DCA 2004).

³ The Court later advised Mr. Arango that he would not be a convicted felon unless he did not comply with the terms of his probation, a position inconsistent with the statute, the case law, and what was said in open court to the victim’s father.

II. TRIAL COUNSEL WAS CONSTITUTIONALLY DEFICIENT FOR FAILING TO ADVISE MR. ARANGO THAT HIS PLEA OF *NOLO CONTENDERE* WOULD RESULT IN A SEX OFFENDER CLASSIFICATION AND MANDATORY REGISTRATION.

43. The United States Supreme Court has held that “[t]he benchmark of judging any claim of ineffectiveness must be whether counsel’s conduct so undermined the proper functioning of the adversarial process that the trial [court] cannot be relied on having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984). The *Strickland* test applies with equal force to challenges against guilty pleas based on the ineffective assistance of counsel. *Hill v. Lockhart*, 474 U.S. 52, 58, 106 S.Ct. 366, 370 (1985); *Agan v. Singletary*, 12 F.3d 1012, 1017 (11th Cir. 1994).

44. Under *Strickland*, a defendant must establish the following two components in order to demonstrate that counsel was ineffective: (1) counsel’s performance was deficient and (2) counsel’s deficient performance prejudiced the defense. *Strickland*, 466 U.S. at 686.

45. As to the first prong, the defendant must establish that “counsel made errors so serious that counsel was not functioning as the ‘counsel’ guaranteed the defendant by the Sixth Amendment.” *Id.*

46. To prove the prejudice prong, the defendant must show that there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different. *Id.* A reasonable probability is a probability sufficient to undermine the confidence in the outcome. *Id.* at 694.

47. A court deciding a claim of ineffective assistance of counsel must judge the reasonableness of counsel’s challenged conduct on the facts of the particular case, viewed as of the time of counsel’s conduct.

The court must then determine whether, in light of all the circumstances, the identified acts or omissions were outside the wide range of professionally competent assistance. In making that determination, the court should keep in mind that counsel's function, as elaborated in prevailing professional norms, is to make the adversarial testing process work in the particular case.

Strickland, at 690. It is well-settled that “ineffective assistance of counsel allegations are ... properly raised in a motion for post-conviction relief.” *McClain v. State*, 629 So. 2d 320, 321 (Fla. 1st DCA 1993).

48. In carrying out the Constitutional duty to provide effective assistance, counsel has the responsibility to inform a client of the advantages and disadvantages, and of the direct consequences of entering a plea. *Padilla, supra; Libretti v. United States*, 516 U.S. 29, 51, 116 S.Ct. 356, 369 (1995). A distinction between direct and collateral consequences is irrelevant to define the scope of constitutionally “reasonable professional assistance” required under *Strickland*. *Padilla, supra*.

49. Failure on the part of counsel to provide this type of legal advice to an accused constitutes ineffective assistance of counsel. *United States v. Broce*, 488 U.S. 563, 547 (1989); *Machibroda v. United States*, 368 U.S. 487, 493 (1962); *Kercheval v. United States*, 274 U.S. 220, 223 (1927); *Henderson v. Morgan*, 426 U.S. 637, 653 (1927).

A. Counsel's Performance Was Deficient Because He Failed To Advise Mr. Arango Of The Sex Offender Registration Requirement.

50. Florida law clearly requires that someone who pleads *nolo contendere* to false imprisonment be classified as a sex offender in Florida, and that they be subject to a mandatory reporting requirement. Florida Statutes § 944.607(1) (2012). The United States Constitution and Florida Constitution require that counsel inform a client of these harsh consequences in order to be effective.

51. Here, counsel failed to advise Mr. Arango that he would be classified as a sex offender and be required to register as such. Counsel mentioned to Mr. Arango that he may be subject to community control as part of his sentence, but never advised Mr. Arango of the possibility of sex offender classification. Counsel's failure to advise Mr. Arango that his plea would directly result in being classified as a sex offender deprived Mr. Arango of effective assistance of counsel.

B. Counsel's Deficient Performance Prejudiced The Defense Because His Client Would Not Have Entered An Open Plea Knowing That He Could Be Required to Register As A Sex Offender.

52. Mr. Arango would not have pled *nolo contendere* but for Counsel's failure to inform him of this direct consequence. The outcome of the case would have been different had Mr. Arango been fully informed of this direct consequence because Mr. Arango would have chosen to proceed to trial.

53. Mr. Arango has been evicted from every residence he has lived in since the requirement to register as a sex offender was implemented. He is unable to maintain a permanent residence which is also affecting his ability to finish junior college and maintain consistent employment.

54. Accordingly, the judgment and sentence in Mr. Arango's case should be vacated as Mr. Arango was deprived of the effective assistance of counsel in violation of the United States Constitution and Florida Constitution.

CONCLUSION

55. Ultimately, Mr. Arango was not aware of the requirement that he be classified as and registered as a sex offender and was, therefore, unable to understand the nature and consequences of his plea. Because his plea was not knowingly and intelligently given, the

sentences resulting from his plea of *nolo contendere* on November 30, 2012, should be vacated and set aside.

56. Additionally, Mr. Arango received ineffective assistance of counsel because counsel failed to advise him of the mandatory sex offender classification as a result of his plea. As a result, Mr. Arango has suffered prejudice in that he has been forced to his family home and been unable to find a permanent residence because of his classification as a sex offender.

WHEREFORE, the Defendant, ARNEY ARANGO respectfully requests that this Court enter an Order:

- A. Vacating the convictions entered on November 30, 2012, and the sentences thereon; or in the alternative;
- B. Scheduling an evidentiary hearing to determine the merits of this motion; and
- C. Granting such other and further relief as this Court may deem just and proper.

Dated: Winter Park, Florida
October 2, 2013

Respectfully submitted,



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NOTARIZED VERIFICATION

STATE OF Florida

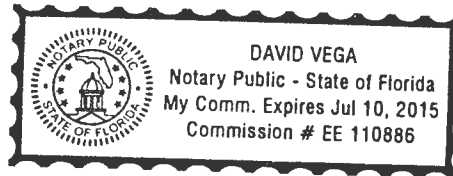
COUNTY OF Broward

Before me, the undersigned authority, personally appeared Arney L Arango, who first being duly sworn, says that [he/she]: (1) is the Defendant in the above-styled proceeding; (2) understands, reads and writes the English language, or that the motion has been translated to him, (3) has read the foregoing and has personal knowledge of the facts and matters therein set forth and alleged; and (4) under the penalties of perjury, hereby SWEARS, VERIFIES, AND AFFIRMS that the foregoing is true and correct.

Arney Arango
ARNEY ARANGO

The foregoing was acknowledged before me this 28 day of September, 2013, by Arney L Arango, who produced FL Drivers license as identification, and who did/did not take an oath.

David Vega
Notary Public



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing motion was furnished this 2nd day of October, 2013 to:

Office of the State Attorney
425 North Orange Ave.
Orlando, Florida 32801



Patrick Michael Megaro, Esq.

EXHIBIT A

1 IN THE CIRCUIT COURT OF THE
2 NINTH JUDICIAL CIRCUIT, IN AND
3 FOR ORANGE COUNTY, FLORIDA
CRIMINAL JUSTICE DIVISION

4 STATE OF FLORIDA,

5 Plaintiff,

6 vs.

CASE NUMBER: 48-2012-CF-3438-A-O

7 ARNEY ARANGO,

DIVISION NUMBER: 12

8 Defendant./

9
10 PLEA AND SENTENCE HEARING

11 BEFORE

12 THE HONORABLE MIKE MURPHY

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15 Recorded by Digital Court Reporters
16 In the Orange County Courthouse
17 Courtroom 19A
18 Orlando, Florida 32801
19 November 30, 2012
20 Transcribed by Crista Porter, CERD

21 ORIGINAL

22 A P P E A R A N C E S:

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I N D E X

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P R O C E E D I N G S

(November 30, 2012; 2:07 p.m.)

THE COURT: You ready?

MR. MILLS: We're ready to go, Judge.

THE CLERK: Already scanned it.

THE COURT: Been scanned? All right.

You want to have your client join you at the podium?

MR. GENTLE: Yes. Your Honor, I believe the case style is Arney Agango. His correct name is Arney Arango.

THE COURT: All right. Is defense -- or does State want to amend the -- the information to change the -- the name to A-R-A-N-G-O?

MR. MILLS: Yes, Judge. I don't -- I mean, I don't have an amended information for his name, but --

THE COURT: Well, you don't have to.

MR. MILLS: Okay.

THE COURT: We'll just oral -- I'll just fix it here.

MR. MILLS: Thank you.

(Pause in proceedings.)

THE COURT: Now on the dispo, if you'd just reflect that so they can update it in the computer too.

All right. I'll take the plea forms.

THE CLERK: Please raise your hand, sir.

(The defendant was sworn.)

1 **THE COURT:** All right. Sir, can you tell us your
2 complete name, please?

3 **THE DEFENDANT:** Arney Arango.

4 **THE COURT:** All right. Mr. Arango, and that's
5 spelled, A-R-A-N-G-O; is that correct?

6 **THE DEFENDANT:** Yes, sir.

7 **THE COURT:** All right. As you stand here today it's
8 alleged in count number one that between the first day of
9 August of 2011 and the 31st day of August of 2011, that you
10 committed the offense of false imprisonment on a person
11 named Desiree Lynn Blevins. It's a third-degree felony,
12 punishable by up to five years in prison and a \$5,000 fine.

13 Count 2 alleges that on October 15th of 2011, you
14 committed the offense of false imprisonment of a
15 Desiree Lynn Blevins. Count 3 -- well, that's also a
16 third-degree felony, punishable by up to five years in
17 prison, a \$5,000 fine.

18 Count 3 alleges that between the August 1st of 2011 and
19 August 31st, 2011, you committed a battery upon
20 Desiree Lynn Blevins. It's a first-degree misdemeanor,
21 punishable by up to a year in jail and \$1,000 fine.

22 Count 4 alleges that you also committed a battery upon
23 Desiree Lynn Blevins during -- it appears to be that same
24 time frame of August 1st through August 31st of 2011.

25 Count 5 alleges that you committed a battery upon

1 Amber Ripley between December 1st of 2010 and August 20th of
2 2011.

3 Count 6 alleges that between September 1st of 2010 and
4 August 20th of 2011, that you committed the offense of
5 stalking on Amber Ripley.

6 So Counts 3, 4, 5, and 6 are each first-degree
7 misdemeanors, punishable by up to a year in jail and \$1,000
8 fine.

9 State, can you provide the factual basis?

10 **MR. MILLS:** Yes, Judge.

11 If this case proceeded to trial, the evidence would
12 show that both victims and the defendant worked together at
13 Publix. Starting in December of 2010 defendant would start
14 to touch Amber -- the victim Amber -- in inappropriate
15 ways. She told him multiple times to stop. He persisted
16 until in August 2011, he pushed her into a break room and
17 tried to kiss her and touch her inappropriately. All this
18 was against her will. It blocked her exit to leave in the
19 -- in the break room at work.

20 In August 2011, this offense was committed on the
21 second victim, Desiree Blevins, again, in a break room at
22 Publix. He forced her into the break room. He was kissing
23 her and touching her inappropriately. He even touched her
24 breasts with his mouth at one point; all that was against
25 her will. She tried to get away, he blocked the exit and

1 held her in the break room similar to the incident with the
2 first victim. He told both --

3 **THE COURT:** This appears in Count 1 and Count 2,
4 Desiree Lynn -- isn't the same victim in Count 1 and Count
5 2?

6 **MR. MILLS:** It -- it is, Judge. There is another
7 instance with Desiree. There is multiple counts that deal
8 with two separate victims.

9 **THE COURT:** All right. Go ahead.

10 **MR. MILLS:** So in October of 2011, Desiree and the
11 defendant were again upstairs in a break area at Publix.
12 Again, he was touching her inappropriately against her
13 will. He touched her breasts, started to touch her
14 buttocks area at one time. She tried to get away, and,
15 again, he held her, preventing her from leaving.

16 These two -- both victims, I believe, were 16 years
17 old at the time, which is why these are not charged as sex
18 offenses.

19 Once each victim found out about what was going on
20 with the other, that's when it was disclosed to a parent
21 and ultimately disclosed to law enforcement. And all these
22 events occurred in Orange County, Florida.

23 **THE COURT:** All right. So although he's charged with
24 six counts, the plea agreement is to one count of false
25 imprisonment, I take it Count 1, and then three counts of

1 battery, I take it 3, 4, 5 --

2 MR. MILLS: Right.

3 THE COURT: -- and then Count 2 and Count 6 will be
4 nol-prossed?

5 MR. MILLS: Yes, Judge. And it's a plea to the bench.

6 THE COURT: All right. Was there any part of any of
7 the plea agreement that was agreed to?

8 MR. MILLS: No, sir.

9 THE COURT: Okay. So it's going to -- and is it
10 contemplated that the sentencing would happen today, or is
11 he entitled to a PSI?

12 MR. GENTLE: We were contemplating on sentencing him
13 today.

14 THE COURT: Okay.

15 MR. GENTLE: If the Court would like a PSI, we would
16 have no problem doing that.

17 THE COURT: It -- it doesn't matter to me. It just --
18 if he's entitled to it, and he wants to waive it, I need to
19 make sure it's on the record that he's waiving it.

20 MR. GENTLE: Let me explain that to my client,
21 Your Honor.

22 THE COURT: Sure. Go right ahead.

23 MR. GENTLE: Just -- may I have a second?

24 (Pause in proceedings.)

25 THE COURT: Yes, sir. Have you had enough time to

1 talk to your client?

2 **MR. GENTLE:** Yes, Your Honor. I've talked to my
3 client about the -- both needing a PSI and waiving. At
4 this time, we would go ahead and waive a PSI.

5 **THE COURT:** All right.

6 Sir, to make sure everything -- or every defendant
7 knowingly, freely and voluntarily enters whatever plea they
8 want to enter, we provide them with a plea packet for their
9 review before they get to the podium. The packet is four
10 -- four forms long, and there's a two-page plea form, a
11 one-page Division 12 supplemental plea form, a DNA inquiry
12 and a collections court form. The forms go over, among
13 other things, the charges that you're pleading to, the
14 rights that you give up by pleading guilty or no contest,
15 the maximum penalty you could receive, lists some of the
16 consequences of entering a plea of guilty or no contest, it
17 lists your right and time to appeal. And then it makes
18 representations on your part, for example, that you're not
19 under the influence of any alcohol or drugs; that you're
20 entering this plea on your own free will; that you agree
21 two days time served is correct.

22 With regard to each of these four forms, did you
23 thoroughly read and understand everything on the forms?

24 **THE DEFENDANT:** Yes, sir.

25 **THE COURT:** Do you have any questions about anything

1 on any of the forms?

2 **THE DEFENDANT:** No, sir.

3 **THE COURT:** And is everything on each of the forms
4 true and correct?

5 **THE DEFENDANT:** Yes, sir.

6 **THE COURT:** Okay. And so far do you clearly
7 understand everything that's happening here today?

8 **THE DEFENDANT:** Yes.

9 **THE COURT:** All right. There's three different types
10 of pleas that a person can enter to these types of charges:
11 guilty, not guilty and no contest. Guilty means you admit
12 it, go ahead and sentence you. No contest means you don't
13 admit it, but you don't deny it, go ahead and sentence you.
14 Whether you plead guilty or no contest, your sentence would
15 be exactly the same. And a plea of not guilty means you
16 deny the allegations, you prefer the case go to trial.

17 Do you understand the difference between the three?

18 **THE DEFENDANT:** Yes.

19 **THE COURT:** Which of those three pleas do you wish to
20 enter to Count 1, false imprisonment, Counts 3, 4 and 5,
21 battery?

22 **THE DEFENDANT:** No contest.

23 **THE COURT:** To those --

24 **THE DEFENDANT:** No contest.

25 **THE COURT:** All right. And are you entering the no

1 contest plea because you believe you're guilty or because
2 you believe this is the best way to resolve the case for
3 you, or both?

4 **THE DEFENDANT:** Best interest to resolve it.

5 **THE COURT:** All right. I'll find that you knowingly,
6 freely, voluntarily and intelligently waived your
7 constitutional rights with an understanding of the nature
8 of the allegations and consequence of the plea. Between
9 the court file and what the State indicated, there is a
10 factual basis to accept the plea.

11 So what I'm going to do is, I'm going to hear first
12 from the State -- sometimes they have people that want to
13 testify, sometimes they tell us what they would have said
14 if they were here. And then afterwards, I'll hear a
15 presentation from your lawyer and if there's something you
16 want to say, you'll be able to say it also.

17 Does that make sense?

18 **THE DEFENDANT:** Yes, sir.

19 **MR. MILLS:** And, Judge, I have one witness. Kristine
20 Schaffer would like to address the Court.

21 **THE COURT:** All right.

22 **MR. MILLS:** This is . . .

23 **THE COURT:** You can move over to that brass fitting on
24 the floor there.

25 (Kristine Schaffer was sworn.)

1 **MR. MILLS:** What's your name?

2 **MS. SCHAFFER:** Kristine Marie Schaffer.

3 **MR. MILLS:** And is your daughter Desiree Blevins?

4 **MS. SCHAFFER:** Yes, sir.

5 **MR. MILLS:** Okay. Now, we're here today for
6 sentencing. What would you like the Judge to know about
7 how this has affected you-all's life?

8 **MS. SCHAFFER:** Judge, I just want to explain to you
9 how this has affected not only my daughter, but as a
10 family. It's taken her innocence away.

11 She, day in and day out, has gone through trauma and
12 it's hard for her to not be able to continue. It -- it
13 constantly comes up as she interacts with men in general,
14 and it -- I just want you to be able to convict him and
15 just give him what he deserves, because he is going free on
16 something that she has to live with for the rest of her
17 life.

18 And I don't want a new -- or maybe it's already
19 happened again -- another victim, and they have to go
20 through what I'm going through with her. And I just ask
21 you to please do what's right to convict him and give him
22 the sentence -- I'd like to see in jail because she has to
23 deal with it every day and I don't want him to think he can
24 just go home and enjoy his life because she doesn't.

25 **THE COURT:** Well, I can -- I don't know if this will

1 make you feel any better or not, but no matter what happens
2 here, there's a -- there's going to a permanent record of
3 what happened. If -- since one of these charges is a
4 felony, there's a requirement under the law that people who
5 plea to -- are found guilty of felonies, are required to
6 register locally with the Sheriff's Office.

7 You can even -- in Seminole County, you can go online
8 and see every person that's registered. We don't have that
9 yet in Orange County, but it's available to -- I mean -- so
10 that -- he's going to have that on his -- on his record.
11 For any person who ever were to look this up, they are able
12 to see it. A lot of parents -- and maybe you're the type
13 of parent that when your daughter tells you they're
14 starting to date someone, you walk over to the clerk's
15 public website --

16 **MS. SCHAFFER:** I do.

17 **THE COURT:** -- and you start looking people up and --
18 and so, it's not -- no matter what the sentence is today,
19 and I haven't heard everyone, and whether it's jail or not
20 jail, or probation or community control or something else,
21 no matter what it is, it's going to be available for people
22 to see and it's not that, you know, he -- he -- it's not
23 like he's going to walk out of here -- if that's what the
24 sentence is -- with -- unscathed from it.

25 I mean, it's a conduct --

1 **MS. SCHAFFER:** Right.

2 **THE COURT:** -- the conduct is criminal and he's
3 entering a plea to it, so there will -- it will be with him
4 for his life also. Now, I'm not trying to equate that in
5 any way with what your daughter might have gone through or
6 what you're going through as a family, but it's -- even if
7 he's given just probation and walks out of here, he still
8 will have prison hanging over his head and this will follow
9 him, I expect, for the rest of his life.

10 So I don't want you to think that just because, like I
11 said, I mean, I haven't heard everyone, it might -- it
12 might -- I don't know what the sentence is going to be yet,
13 but I don't want you to think that, like I said, if he
14 walks out of here that means it's as if nothing happens.

15 As far as, like, counseling or anything like that, is
16 your daughter currently in counseling?

17 **MS. SCHAFFER:** She's been with the church, going to
18 the pastor's wife to speak to her. But I tried to get her
19 in, but it costs too much money for -- because they wanted
20 to see her a couple of times --

21 **THE COURT:** Um-hum.

22 **MS. SCHAFFER:** -- a couple times a week and the State
23 only pays for \$50 per session and they're \$100 and I can't
24 afford \$100 a week. That's why I've asked if we can get
25 restitution that -- so she can go, because she wants to be

1 able to go --

2 **THE COURT:** Um-hum.

3 **MS. SCHAFFER:** -- to someone that's, obviously, biased
4 [sic]. Though she's able to still speak to someone at
5 church, so --

6 **THE COURT:** Okay. So the Victim's Compensation Fund
7 only pays for \$50 a session?

8 **MS. SCHAFFER:** That is correct.

9 **THE COURT:** All right.

10 All right. Any further questions of her?

11 **MR. MILLS:** I have -- is there anything else you want
12 to the Judge to know?

13 **MS. SCHAFFER:** No, sir. Thank you.

14 **THE COURT:** All right. Mr. Gentle, is there any
15 questions that you have?

16 **MR. GENTLE:** No questions, Your Honor.

17 **THE COURT:** All right. Thank you.

18 **MS. SCHAFFER:** Thank you.

19 **THE COURT:** You can have a seat in the back there.

20 **MR. MILLS:** And, Judge, I have a victim impact
21 statement from Desiree Blevins, if I could just read that?

22 **THE COURT:** Yeah. Absolutely.

23 **MR. MILLS:** Dear --

24 **THE COURT:** And are you going to follow it up with the
25 -- in writing -- in the court file?

1 **MR. MILLS:** Yes, I'll file it.

2 Dear Honorable Judge, I want to let you know that this
3 situation brought into my life has affected me emotionally
4 as well -- and will always affect me. I really believe that
5 he needs to feel what I feel to -- I'm sorry -- feel what I
6 feel to continue to feel for the rest of my life. Due to
7 this, I've been through a lot in this past year. It's been
8 a downhill road. I went to the wrong crowd trying to get
9 over it, and to get it off my mind, but it never filled in
10 the hurt that I had. I feel right now I suffer more than he
11 ever will and I am the victim here.

12 As I continue my life, I'm always having to go to bed
13 with nightmares, always keeping an eye on my back, always
14 jumping when someone grabs my arms and being nervous when
15 I'm surrounded by guys.

16 I'm in a wonderful relationship now. I wouldn't trade
17 it for anything. I still get those feelings when he touches
18 me in a certain way.

19 When people bring it up, his name, the situation or
20 something similar to my situation, I always hold back tears.
21 I hate that no matter how hard I try, it will always be
22 there. You don't know how it feels until it's happened to
23 you.

24 I sometimes catch myself thinking back to what I could
25 have done different, but as I do, I tell myself it was never

1 my fault and I couldn't have stopped it. I'm just scared
2 for the next girl he might work with, see at the mall or
3 anything else. What if she ends up in my predicament and no
4 one knows? But I hope some way we can prevent it.

5 I don't see why he should get off with only minor
6 violations. It was me, another girl and who knows who else.
7 I believe that he should be classified as a sex offender, be
8 sentenced to six months in jail with five years of probation
9 afterwards, and I never want contact with him again.

10 I want people around him to know what he has done to
11 two girl's lives, plus whoever else that didn't come
12 forward. I'm trying to watch out for girls in the future.
13 I didn't ask for this to happen to me and neither will the
14 next girl.

15 Thank you for your time and allowing me to express how
16 I feel.

17 **THE COURT:** All right. If you can fill out this
18 Notice of Filing and attach it to it.

19 **MR. MILLS:** Yes, sir. Thank you.

20 **THE COURT:** The -- all right. So I take it that
21 you've explained to the families and the victims why it is
22 not charged as a sex --

23 **MR. MILLS:** Right.

24 **THE COURT:** -- offense?

25 **MR. MILLS:** Yes, sir. And they understand he's not

1 going to be a sex offender.

2 **THE COURT:** Okay. When this -- when this -- these
3 incidents came to light, did someone go to, like, the -- the
4 location of where they were working and find out if there
5 was more than the two people there?

6 **MR. MILLS:** I believe that they did, Judge, that law
7 enforcement did, and no one else came forward. So I -- I
8 believe --

9 **THE COURT:** At least there was an investigation, though?

10 **MR. MILLS:** Yes, sir.

11 **THE COURT:** All right. And when -- that letter talked
12 about minor charges. I take it the family knows that the --
13 the false imprisonment is a felony?

14 **MR. MILLS:** Right.

15 **THE COURT:** All right.

16 **MR. MILLS:** Yes, sir.

17 **THE COURT:** Okay. Yes, Mr. Gentle.

18 **MR. GENTLE:** Yes, Your Honor. If I could just briefly
19 be heard?

20 **THE COURT:** Sure. Absolutely.

21 **MR. GENTLE:** Mr. Arango, since this has happened, has
22 moved out of Orlando. He moved in with his parents. He now
23 lives down in south Florida. He is currently -- he did go
24 see a Dr. Dorfman, who is a licensed psychologist. I
25 provided the State with a -- an -- well, not an evaluation,

1 but an opinion. But he had seeked counseling, he has been
2 talking to people. It is of Dr. Dorfman's opinion that at
3 this time he is no threat to himself or to the community.

4 But what we are asking for -- in front of you is a
5 23-year-old man who is currently working on his AA. He's
6 about to finish his AA. He wants to go ahead and proceed to
7 -- to, I believe, FAU to get a four-year degree. He's
8 currently working with his family and he lives with his mom
9 and dad.

10 We're asking the Court to consider withholding
11 adjudication in this matter. We're asking the Court to
12 consider probation. He does not score out mandatory jail
13 time, even though I understand it's completely at the
14 Court's discretion. But he -- he does not score out jail
15 time. He did two days jail.

16 We're asking the Court -- we'll pay back restitution and
17 we'll stipulate to restitution if we -- there is an amount.

18 We understand if the Court wants him to have an
19 evaluation through probation and follow through with any
20 treatment, we're more than happy to do that. If the Court
21 is looking for some kind of community service, he's more
22 than happy to do that.

23 Right now he seems to have his life on track. He seems
24 to be doing well living with his family. He seems to be
25 doing well. He has had some issues because of this, that --

1 that made him want to go talk to a licensed psychologist and
2 -- and he has, and he's more than happy to continue doing
3 that.

4 What we're asking the Court to consider: the fact
5 that he has no prior record, that he was honest in this
6 whole evaluation, that he has not had any contact, he does
7 not care to have any contact, he has not returned back to
8 the Publix, he did talk to the people in Publix and the --
9 the officer involved when this happened. We're asking the
10 Court to take all that into consideration in this matter.

11 **THE COURT:** What kind of evaluation and treatment-type
12 things are even available?

13 **MR. MILLS:** I would suggest a psychosexual evaluation
14 and any recommended treatment similar to someone who's being
15 placed on sex-offender probation.

16 (Pause in proceedings.)

17 **THE COURT:** Is there any cost of investigation?

18 **MR. MILLS:** No, sir. I don't believe so.

19 **THE COURT:** And as far as restitution, I take it that
20 number isn't even -- that's not even known yet.

21 **MR. MILLS:** Right. That -- there is a -- I had
22 submitted an order that -- order and reserved for both
23 victims. And then Victim's Compensation is requesting \$50,
24 I guess, for the one visit so far. So that's also in the
25 restitution order.

1 **THE COURT:** But they -- they probably -- if they're
2 going to -- do you think they're going to expend any more
3 money?

4 **MR. MILLS:** It's possible. I think the order that I
5 filed still reserves for any -- any further amounts to that
6 as well. It should be with the scoresheet.

7 **THE COURT:** All right. Sometimes -- defendants want to
8 say sometimes [sic]; sometimes defendant's don't want to say
9 anything. It's up to --

10 **MR. GENTLE:** I have spoken to Mr. Arango, and his father
11 is present in the courtroom. He is very nervous.

12 **THE COURT:** Sure.

13 **MR. GENTLE:** And very -- he's -- he's not talkative
14 person, but let me just make sure --

15 **THE COURT:** Sure.

16 **MR. GENTLE:** -- that he understands that he can speak to
17 you. I haven't talked to him about it.

18 **MR. MILLS:** Can I approach with the . . .

19 **THE COURT:** (No audible response.)

20 (Pause in proceedings.)

21 **MR. GENTLE:** Your Honor, I -- I do believe he would like
22 to say something.

23 **THE COURT:** All right.

24 **THE DEFENDANT:** I'm just -- I just want to say that I'm
25 truly sorry.

1 **THE COURT:** What is -- what is the degree you ultimately
2 hope to get after the AA?

3 **THE DEFENDANT:** A bachelor's -- maybe -- probably in
4 business -- that's what I'm thinking.

5 **THE COURT:** Do you have any sisters?

6 **THE DEFENDANT:** I have one sister.

7 **THE COURT:** Older or younger?

8 **THE DEFENDANT:** Younger.

9 **THE COURT:** What's that?

10 **THE DEFENDANT:** Younger.

11 **THE COURT:** All right. And how old?

12 **THE DEFENDANT:** She's 18.

13 **THE COURT:** All right. I always like to -- and feel
14 free not to answer this question -- but I always like to try
15 to reverse the roles just for a moment. Like let's say it
16 was your sister who was the victim and you were sitting with
17 her in the audience and -- and the defendant was about to be
18 sentenced. What -- what would you think should happen to
19 that person?

20 **THE DEFENDANT:** (No audible response.)

21 **THE COURT:** I'm not -- I'm not going to -- I wouldn't
22 necessarily do to you what I would -- what you say, but I'm
23 just curious. I want to know if you know how their family
24 feels and -- if you understand the question. And you can
25 tell me I don't --

1 **THE DEFENDANT:** I understand.

2 **THE COURT:** -- want to answer it.

3 **THE DEFENDANT:** I don't -- I don't know.

4 **THE COURT:** Well, you -- but you understand --

5 **THE DEFENDANT:** But I . . .

6 **THE COURT:** -- that if the roles were reversed -- I
7 mean you -- sometimes people think what they're doing is
8 innocent fun and it's the person that's doing it and, then
9 they got their family and the person that's the receiver of
10 what you think is, or a person thinks is innocent fun and
11 they -- they don't think it's all that innocent and they,
12 you know, have to deal with all the -- the emotion that goes
13 along with it.

14 So whenever I sentence everyone -- or anyone, I always
15 do the -- I think the following things in my head, just so
16 you understand. I listen to the presentation of both sides,
17 I listen to the -- or you know, hear the factual basis and,
18 you know, the criminal history, if any -- in your case,
19 none. And then I, ultimately, will sentence you, taking
20 into account pretty much everyone I've ever sentenced before
21 and think what's appropriate based upon the facts of the
22 case and the presentation that has been made in -- in the
23 case.

24 And, you know, I'm not going to sentence you to jail,
25 but I'm going to sentence you to something that's -- that's

1 not pleasant because for six months you're going to -- it's
2 called community control and it's a level 2 -- it's an ankle
3 bracelet. And it -- pretty much, you won't even have one
4 minute of fun time in the next six months and if you violate
5 that, then it's likely that the prosecutor over there or his
6 representative, when they go in front of a judge on a
7 violation, he's going to say, you know, we wanted prison and
8 we didn't get it, or we wanted something much serious -- and
9 he, you know, he had a break and -- and now we want him to,
10 you know, pay the price for a violation.

11 Then that's going to be followed by four years of
12 supervised probation. I'll make it a condition of your
13 community control and probation that you have no contact
14 with either of the victims or their families. Can you think
15 of any reason why you'd have to have any contact with them?

16 **THE DEFENDANT:** (No audible response.)

17 **THE COURT:** All right. For the record, you're shaking
18 your head no.

19 Now I want to use an extreme example of what no contact
20 means. Let's say you were the person that just won that
21 half a billion dollars Powerball, if you sent the families
22 \$10,000,000 directly or through a friend, even though other
23 people might think what a wonderful gesture, that's still
24 considered contact and a violation of the no contact order.
25 And I think most judges are consistent that a violation of

1 the no contact order in any way, even if it's not a crime,
2 is the quickest way to cause someone to end up being in
3 prison for a violation, so try not to even think about, in
4 any way, contacting directly or indirectly -- indirectly
5 means through another person. Even if you -- even if you
6 wanted to say you are sorry in some way, you -- you cannot
7 relay that message in any way to those people. It's as if
8 they don't -- in your mind you should think, although be
9 cognizant of the pain that they feel as a family, you
10 shouldn't be thinking of any way to try to contact them.

11 Does that make sense?

12 **THE DEFENDANT:** Yes, sir.

13 **THE COURT:** All right. In the first 60 days of being on
14 home -- you'll have to report to home confinement no later
15 than Monday. You have to report here locally, and you might
16 as well go here today and then after you report here
17 locally, then you can transfer it to -- to anywhere else in
18 the State.

19 **MR. GENTLE:** He lives in Parkland, Florida.

20 **THE COURT:** All right.

21 **MR. GENTLE:** Don't you, still?

22 **THE DEFENDANT:** Yes.

23 **THE COURT:** So first report here and then they'll tell
24 you the procedure.

25 The -- in the first 90 days of being on community

1 control you have to have a psycho -- prove to your community
2 control officer you've had the psychosexual evaluation and
3 started any treatment that's recommended, maintain regular
4 attendance in that treatment throughout the time you're on
5 community control. And if it's not finished by the time you
6 go into probation, that you maintain treatment in there and
7 that you complete that treatment within two years of being
8 on probation.

9 Also as a condition of -- once you start your probation,
10 you're going to be doing 16 hours of alternative community
11 service per month. So it's -- in the normal month, there's
12 probably eight -- what, eight days of weekends -- two of
13 your weekends -- two of your days of those eight are going
14 to be spent doing unpleasant things that benefit the
15 community. Sometimes they have people pick up trash, other
16 times they do other -- but they -- it's -- it's not the
17 community service of working at the Humane Society answering
18 the telephone, it's actually like real community service.

19 There's court costs. There's a cost of prosecution of
20 \$100. There's surcharges for the three battery charges.

21 On the felony, which is what I've sentenced you to so
22 far, I'll withhold, but on each of the batteries I'm going
23 to adjudicate you guilty. And on the batteries, I'm going
24 to put you on a period of -- we'll give you credit for time
25 served, followed by a period of 360 days of supervised

1 probation. Those -- that probation is consecutive to the --
2 to the community control, but concurrent with the other
3 probation. So you're going to be on -- for the first six
4 months, you're going to be on that community control,
5 level 2. When that's over, then you're going to be on
6 probation on every one of the counts that you pled to.

7 Does that make sense?

8 **THE DEFENDANT:** Yes, sir.

9 **THE COURT:** And the condition of your probation will be
10 that -- all those are running concurrent -- and the
11 conditions of your probation all remain the same on all the
12 counts.

13 There's court costs, cost of -- as I mentioned before,
14 all those financial obligations, including ordering
15 restitution, reserving as to the amount for the two victims,
16 ordering for the \$50 Crime Compensation Fund, refer to
17 collections court, payable at the rate of \$25 a month,
18 beginning January 22nd of 2013.

19 Condition of your community control and probation, you
20 comply with collections court. Now, once -- if the
21 restitution numbers get larger because of -- after we have a
22 hearing, that might cause me to have to increase the amount
23 of -- of -- of what you have to pay on a monthly basis to --
24 for restitution.

25 The adjudications on the battery is -- will prevent you

1 from being able to have the record sealed. I need to let
2 you know that. But you will not be a convicted felon unless
3 you violate community control or probation.

4 Does that make sense?

5 **THE DEFENDANT:** Yes, sir.

6 **THE COURT:** Do you have any questions about your
7 sentence?

8 **THE DEFENDANT:** No, sir.

9 **THE COURT:** Do you have any questions?

10 **MR. GENTLE:** No, sir. Thank you.

11 **THE COURT:** And the way the -- the way the community
12 service is going to work, it's going to say on the -- on the
13 last business day of the month, you have to show proof to
14 your probation officer that during that month, you completed
15 the 16 hours of alternative community service. So once a
16 month you're going to be showing your probation officer that
17 that month you had already done 16 hours. Okay?

18 Do you have any questions for me?

19 **THE DEFENDANT:** I have -- it starts Monday, right, for
20 the -- the containment and the --

21 **THE COURT:** The community control?

22 **MR. GENTLE:** You've got to report today.

23 **THE COURT:** Well, I'm giving you until Monday to report,
24 but you're here locally right now. And their office is
25 right there.

1 **THE DEFENDANT:** Okay.

2 **THE COURT:** So you -- it probably doesn't make any sense
3 for you to wait until Monday. But I realize that sometimes
4 that there's some reason for a delay to get over there, so I
5 don't want you to violate. If you end up not reporting
6 today, then you're going to have to come back up here on
7 Monday and report.

8 **THE DEFENDANT:** Okay. Will I still be able to go to
9 school?

10 **THE COURT:** Yeah. There's nothing that's going to
11 prevent community control from preventing you from --
12 nothing in community control will prevent you from going to
13 school.

14 **THE DEFENDANT:** Okay. All right.

15 **THE COURT:** Any other questions?

16 **THE DEFENDANT:** (No audible response.)

17 **THE COURT:** All right. For the record, you're shaking
18 your head no.

19 You have 30 days to appeal the judgment and sentence of
20 the Court. If you do so, you must do so in writing to the
21 Clerk of the Court. If you can't afford an attorney, one
22 will be appointed to represent you.

23 In a moment, you'll step with the deputy. They'll take
24 a set of your fingerprints.

25 Is the State filing a nol-pros on Counts 2 and 6?

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MR. MILLS: Yes, Judge. State announces a nol-pros.

MR. GENTLE: Have a good weekend, Your Honor.

THE COURT: Yeah. You too. Thanks.

(This proceeding recessed at 2:37 p.m.)

C E R T I F I C A T E

1
2 STATE OF FLORIDA:

3 COUNTY OF ORANGE:

4 I, Crista Porter, being a Digital Court Reporter as
5 authorized by Rule 2.535(h)(3), Florida Rules of Judicial
6 Administration, and the Administrative Order of the Ninth
7 Judicial Circuit numbered 07-98-43, certify that the foregoing
8 transcription is true and correct.

9 Dated this 14th day of August, 2013, in the City of
10 Orlando, County of Orange, State of Florida.

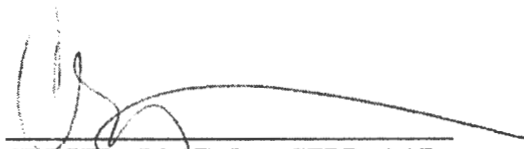
11
12
13 
14 CRISTA PORTER, CERD-347
15 Digital Court Reporter
16
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EXHIBIT B

Arney Arango

CHARGED WITH: 1) 787.02(1), 2) 787.02(1), 3) 784.03
4) 784.03, 5) 784.03, 6) 784.048(2)

COURT OPENED AT _____ HONORABLE Murphy JUDGE

ASST. STATE ATTORNEY J. Mills ASST. PUBLIC DEFENDER _____
COURT REPORTER ECR COURT DEPUTY Velasquez

This Case came on this date for Plea Sentencing _____ Trial _____ Pre-Trial _____

The Defendant was Present _____ Not Present Counsel Present D. Gensle

Plea of not guilty withdrawn _____ Defendant tried and found guilty Defendant sworn and pled _____ guilty to

Nolo Contendere to: Counts 2, 3, 4, 5

_____ Defendant reserves right to appeal Adjudication of Guilt withheld, finding guilt entered. Count 1

Defendant adjudged guilty. Counts 3, 4, 5

_____ P.S.I. Ordered, It is hereby ordered that the Department of Corrections submit P.S.I. or a scoresheet of Defendant and deliver a written report of same to undersigned Judge within two working days before sentencing. STATUS _____

_____ Sentencing for _____, at _____ M, Courtroom _____

_____ P.S.I. Bond set at _____, P.D.R. ORDERED. _____ P.S.I. waived.

State Nolle Pros / to Nolle Pros Counts 2 and 6

_____ Defendant referred to PTD / Drug Count Each count concurrent.

SENTENCING: Waive PSI. State orally amended information to reflect Arney Arango.

_____ Adjudication of guilt was withheld, a finding of guilt entered. Restitution ordered and reserved

_____ Defendant adjudged guilty

Pay total fine costs of \$719. Pay by _____ / comply with Collections Court.

2 Days Orange County Jail / DOC with Credit for time served 2 days

SENTENCE: As to Count 1 - 6 months Community Control level II report by 4pm on 12/3 followed by 4 years of supervised state probation. No contact with victims or family. Psycho sex eval within 90 days.

_____ Issue Capias _____ Bond \$ _____ forfeit/ revoke. Maintain attendance, follow treatment. 16 hour

_____ Release - Defendant is Ordered released from custody as to this case only. of alternative community

DONE AND ORDERED THIS 30 DAY OF November, 2012 of alternative community

serve a month, see

CIRCUIT / COUNTY JUDGE proof at last day of month. Counts 3, 4, 5

Filed in Open Court this 30 day of November, 2012 360 days of Probation

LYDIA GARDNER, CLERK OF THE CIRCUIT AND COUNTY COURTS

By: _____ Distribution: _____

Deputy Clerk in Attendance

- _____ community control
- Defendant
- _____ Probation
- _____ Court Deputy

EXHIBIT C



7900 South 1st Broadway Blvd

201 S.E. 6th Street

Florida Department of Law Enforcement

Florida Offender Registration & Tracking Services

Rick Scott, Governor

Post Office Box 1489
Tallahassee, Florida 32302-1489
1-888-357-7332
www.fdle.state.fl.us

Pam Bondi, Attorney General
Jeff Atwater, Chief Financial Officer
Adam Putnam, Commissioner of Agriculture

Gerald M. Bailey
Commissioner

February 5, 2013

Arney Arango
10974 NW 61st Ct
Parkland, FL 33076-3721

Re: Florida Sexual Offender Registration Notification & Requirements

Dear Mr. Arango:

The Florida Department of Law Enforcement (FDLE) has received information that you qualify and are required to register as a sexual offender, pursuant to s. 943.0435, Florida Statutes. After careful review of your criminal history record, it was determined that your requirement to register as a sexual offender is based on one or both of the following reasons:

- 1. Requirement to register as a sexual offender in the State/Jurisdiction of:
- 2. Release from sanction for a qualifying sex offense on or after October 1, 1997

Qualifying Offense:	False Imprison Minor Aga.will F.s. 787.02(1)(b)
Date of Arrest/Conviction:	11/30/2012
Date Released from Sanctions for Qualifying Offense:	5/29/2017
State/Jurisdiction of Conviction:	Florida
Subject to Community Notification:	Yes

Florida law states in part:



As a Sexual Predator (F.S. 775.21) or Sexual Offender (F.S. 943.0435; 944.607; or 985.481) I understand that I am required by law to abide by the following:

"Permanent residence" means a place where the person abides, lodges, or resides for 5 or more consecutive days.

"Temporary residence" means a place where the person abides, lodges, or resides, including but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of 5 or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state.

"Transient residence" means a place or county where a person lives, remains, or is located for a period of 5 or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.

EXHIBIT D

**Notice of Offender Responsibilities as Required by Statute
For Offenders Being Discharged From the Care, Custody, and/or Control Without Supervision**

NAME: Arney Arango FDC Number: K 80860

The Florida Department of Corrections is required to submit personal information about you and the offense for which you were convicted to the Florida Department of Law Enforcement (FDLE) as a Sexual Offender or Sexual Predator as defined in Florida Statutes s. 944.607, s. 775.21, or s. 943.0435.

As required by Florida Statute, your photograph will be submitted to the FDLE and will be posted on FDLE's Internet website.

You will continue to be a Sex Offender or Sexual Predator as defined in s. 775.21, or s.943.0435 F.S., upon your discharge and/or termination of supervision from the Department of Corrections custody and will be required by law to do the following:

1. If you are a **sexual offender** or a **sexual predator**, you must provide the following information to the sheriff's office in the county you are residing within 48 hours of release from supervision or prison, and notify the sheriff's office immediately if any of this information changes:
 - a. Your complete true name, date of birth, social security number, race, sex, height, weight, hair and eye color, tattoos or other identifying marks; occupation and place of employment, address of permanent or legal residence or address of any current temporary residence within the state or out of the state, or any transient residence within the state, address, location or description and dates of any current or known future temporary residence within the state or out of the state; home telephone number, cellular telephone numbers; and
 - b. Any electronic mail (email) address and any instant message (IM) name.

FAILURE TO REPORT THIS INFORMATION OR CHANGES IS A THIRD DEGREE FELONY.

2. If you are a **sexual offender** or a **sexual predator**, you must register in person
 - a. at the **sheriff's office** in the county where you establish or maintain a residence **within 48 hours** after being released from the custody, control, or supervision of the Department of Corrections or from the custody of a private correctional facility; and
 - b. at a **driver's license office** of the Department of Highway Safety and Motor Vehicles **within 48 hours** after registering in person at the sheriff's office in the county where you establish or maintain a residence.

FAILURE TO COMPLETE REGISTRATION IS A THIRD DEGREE FELONY.

3. If you are a **sexual predator**, you must register in person at the **sheriff's office** in the county where you were designated by the court as a sexual predator **within 48 hours** after establishing or maintaining permanent or temporary residence in this state or **within 48 hours** after being released from the custody, control, or supervision of the Department of Corrections or from the custody of a private correctional facility.

FAILURE TO COMPLETE REGISTRATION IS A THIRD DEGREE FELONY.

4. If you are a **sexual offender** or a **sexual predator**, you must report in person at a **driver's license office** of the Department of Highway Safety and Motor Vehicles if you change
 - a. your name by reason of marriage and/or any other legal process; or
 - b. your permanent, temporary or transient residence or location; or
 - c. your driver's license or identification card whether or not the driver's license or identification card requires renewal.

FAILURE TO REPORT ANY CHANGES WITHIN 48 HOURS OF MAKING CHANGES IS A THIRD DEGREE FELONY.

NOTE: As applied to registration, the definition of temporary residence, permanent residence and transient residence under s. 775.21(2) (f) (I) and (m) or s. 943.0435(1) (c), F.S. are:

- Permanent residence: place where a person abides, lodges, or resides for 5 or more consecutive days.
- Temporary residence: place where a person abides, lodges, or resides including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for 5 or more days in the aggregate during any calendar year.
- Transient residence: place where a person lives, remains or is located for a period of 5 or more days in the aggregate during any calendar year, which is not the person's permanent or temporary address, including a place where the person sleeps or seeks shelter and a location that has no specific street address.

5. If you are a **sexual offender** or a **sexual predator**, you must report in person at the **sheriff's office** of the county in which you are located **before vacating, or within 48 hours after vacating**, your permanent, temporary or transient residence if
 - a. You are vacating or have vacated your permanent, temporary or transient residence and you do not have another permanent, temporary or transient residence.

6. If you report your intent to vacate your permanent, temporary or transient residence, under number 5 above, but remain at your permanent, temporary or transient residence you must report that information to the **same sheriff's office, under number 5 above, within 48 hours** after the date upon which you indicated you would vacate.

FAILURE TO REPORT THAT YOU DID NOT VACATE YOUR RESIDENCE IS A SECOND DEGREE FELONY.

7. If you are a **sexual offender** or a **sexual predator**, you must register through the sheriff's office if your permanent, temporary or transient place of residence is a motor vehicle, trailer, mobile home, or manufactured home as defined in chapter 320, F.S., or if your permanent, temporary or transient place of residence is a live aboard vessel or houseboat as defined in chapter 327, F.S.

8. If you are a **sexual offender** or a **sexual predator** and you are enrolled, employed, or carrying on a vocation at a covered institution, you must immediately provide to the **sheriff's office the name, address, and county** of each covered institution where you are enrolled, employed, or carrying on a vocation, including each campus you are attending and your employment or enrollment status. Covered institutions are
 - a. community colleges, colleges, or state universities; or
 - b. independent post-secondary institutions including technical, vocational or career centers; or
 - c. adult education facilities.

FAILURE TO INFORM THE SHERIFF'S OFFICE IS A THIRD DEGREE FELONY.

9. You must report any change in enrollment or employment status under number 8. within 48 hours of any change in status.

FAILURE TO INFORM THE SHERIFF'S OFFICE IS A THIRD DEGREE FELONY.

10. If you are a **sexual offender** or a **sexual predator** and you intend to establish residence in another state or jurisdiction, you must report in person to the sheriff of the county of your current residence 48 hours **before** the date you intend to leave Florida. At that time you must provide the sheriff with the address of your intended residence, including the municipality, county, and state.

FAILURE TO PROVIDE THE SHERIFF WITH THE PROPER INFORMATION IS A THIRD DEGREE FELONY.

11. If you are a **sexual offender** or a **sexual predator** and you choose to remain in Florida after reporting that you intend to establish residence in another state or jurisdiction under number 10., you must report that you did not leave Florida in person to the sheriff within 48 hours of the date you indicated you would leave.

FAILURE TO REPORT THAT YOU DID NOT LEAVE FLORIDA IS A SECOND DEGREE FELONY.

12. If you are charged with any failure to register, that charge constitutes actual notice of failure to register. If you fail to register immediately thereafter, you may face a subsequent charge of failure to register. You may not use the defense of lack of notice when charged a second time with failure to register.
13. You must maintain registration for life except as specified in s. 775.21, F.S. or s. 943.0435, F.S.
14. You must report in person twice a year, during the month of your birthday and during the sixth month following your birth month, to the sheriff's office in the county in which you reside or are otherwise located to reregister in accordance with s. 775.21, s. 943.0435, or s. 944.607, F.S.
FAILURE TO REREGISTER AS REQUIRED IS A THIRD DEGREE FELONY.

IF YOUR BIRTH MONTH IS:	YOU MUST REREGISTER IN:	IF YOUR BIRTH MONTH IS:	YOU MUST REREGISTER IN:	IF YOUR BIRTH MONTH IS:	YOU MUST REREGISTER IN:
January	January & July	May	May & November	September	March & September
February	February & August	June	June & December	October	April & October
March	March & September	July	January & July	November	May & November
April	April & October	August	February & August	December	June & December

15. Effective July 1, 2007, you must reregister during the month of your birthday and every three months thereafter if you are a sexual predator or if you have been convicted of a violation of one of the following Florida Statutes:
- a. s. 787.01 if certain provisions apply; or
 - b. s. 787.02 if certain provisions apply; or
 - c. s. 794.011, excluding s. 794.011(10); or
 - d. s. 800.04(4)(b) if certain provisions apply; or
 - e. s. 800.04(5)(b); or
 - f. s. 800.04(5)(c)1 or 2 if certain provisions apply; or
 - g. s. 800.04(5)(d) if certain provisions apply.
- FAILURE TO REREGISTER AS REQUIRED IS A THIRD DEGREE FELONY**

IF YOUR BIRTH MONTH IS:	YOU MUST REREGISTER IN:	IF YOUR BIRTH MONTH IS:	YOU MUST REREGISTER IN:	IF YOUR BIRTH MONTH IS:	YOU MUST REREGISTER IN:
January	January, April, July, & October	May	February, May, August, & November	September	March, June, September, & December
February	February, May, August, & November	June	March, June, September, & December	October	January, April, July, & October
March	March, June, September, & December	July	January, April, July, & October	November	February, May, August, & November
April	January, April, July, & October	August	February, May, August, & November	December	March, June, September, & December

16. If you are a **sexual offender** or a **sexual predator**, you must also comply with any registration requirements imposed by another state if you change your residence to another state or if you are employed, carry on a vocation, or are a student in another state.
17. You must respond to any address verification correspondence you receive within three weeks of the date of the correspondence.
18. You may not reside within 1,000 feet of any school, child care facility, park, or playground if you have been convicted of an offense that occurred on or after October 1, 2004 against a victim that was less than 16 years of age in violation of any of the following Florida Statutes or a similar violation in another jurisdiction:
- a. s. 794.011; or
 - b. s. 800.04; or
 - c. s. 827.071;
 - d. s. 847.0135(5); or
 - e. s. 847.0145.

AA I acknowledge that I have read and understood the above requirements.
 <or>

AA The above requirements have been read to me and I understand them.

Arney Arnes
 Offender Printed Name
Richard Nobles
 Witness Printed Name

[Signature]
 Offender Signature
[Signature]
 Witness Signature

2-5-13
 Date
2-5-13
 Date

Distribution:

Institution: Central Office (Original)
 FDLE (Copy)
 File (Copy)
 Sheriff's Office (Copy)
 Offender (Copy)

Probation: FDLE (Original)
 P & P Offender File (Copy)
 Offender (Copy)

EXHIBIT E

Florida Department of Law Enforcement - Sexual Offender / Predator Flyer

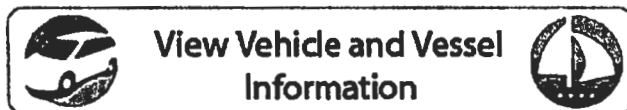


ARNEY ARANGO
Date Of Photo: 06/27/2013

Click Here to Track this Offender	
Designation:	<u>Sexual Offender</u>
Name:	ARNEY ARANGO
Status:	<u>Supervised - FL Dept of Corrections</u>
Department of Corrections #:	X80860 Search the Dept of Corrections Website
Date of Birth:	07/07/1989
Race :	White
Sex:	Male
Hair:	Black
Eyes:	Brown
Height:	6'00"
Weight:	230 lbs

ARANGO is registered as a Sexual Offender. Positive identification cannot be established unless a fingerprint comparison is made.

Aliases				
Not Available				
Scars, Marks & Tattoos				
Information temporarily unavailable				
Address Information				
Address	Address Source Information			Map Link
7910 NW 70th Ave Parkland, FL 33067-3967 Broward COUNTY	Source: Dept. of Highway Safety and Motor Vehicle Received: 06/28/2013 Type of Address: Permanent			Show Map
Crime Information - Qualifying Offenses				
Adjudication Date	Crime Description	Court Case Number	Jurisdiction & State	Adjudication
11/30/2012	<u>FALSE IMPRISON ANY OTHER; F.S. 787.02</u>	1203438	<u>ORANGE, FL</u>	Adjudication Withheld
Victim Information				
Gender:Female Minor:Yes				



NEW SEARCH

CAUTION! If you reached this flyer from any site other than FDLE's Florida Sexual Offender and Predator homepage, FDLE cannot guarantee the timeliness of the information you are viewing. To receive the most current information regarding registered sexual offenders or sexual predators registered with the State of Florida please conduct an "Offender Search" from FDLE's website located at <http://offender.fdle.state.fl.us/offender>

If further information is needed, please contact the Florida Department of Law Enforcement Registration & Compliance Unit at (1-888-357-7332) between the hours of 8am and 6:30pm, Monday through Friday.

Positive identification cannot be established unless a fingerprint comparison is made. Any person who misuses public records information relating to a sexual predator, as defined in this section, or a sexual offender, commits a misdemeanor of the first degree. Please see [775.21\(10\)\(c\)](#) for more information.

EXHIBIT F



June 20, 2013

Elconides J. Arango
10354 Gentlewood Forest Drive
Boynton Beach FL 33473

RE: Notice of Violation Hearing

Violation: Unauthorized Occupant

Dates of Previous Notices: May 28, 2013

Dear Mr. Arango:

At this time your cooperation is requested in resolving the above referenced violation. Please be advised that the Canyon Lakes Board of Directors is responsible for maintaining the value of the community. Since the violation has not been corrected to date, the Judicial Review Committee of Canyon Lakes has scheduled a hearing on **July 10, 2013 at 6:00 PM** at Canyon Lakes Clubhouse, 8771 Canyon Lakes Drive Boynton Beach FL 33473 to review this violation.

If you are unable to attend the hearing in person, please contact the management office **in writing** at the address or fax number listed below, or by e-mail to canyonlakeshoamanagementoffice@gmail.com. In order to properly document your response, verbal communication cannot be considered. Should you choose not to attend the mandatory hearing or provide written documentation in advance of the hearing, you may be fined for the outstanding violation. When you attend the hearing, you will have the opportunity to present pertinent facts, supporting documentation, and your general response as to why the violation has not been properly corrected.

Please be assured that inspections and enforcement are intended to be constructive in nature. The Association may fine a maximum of \$1,000.00 per violation if not properly corrected by the date of the hearing. Should no action or inappropriate action be taken, both the Association Documents and Florida Statutes allow for additional legal remedies, which will be followed to the extent necessary to obtain your compliance.

Thank you for your immediate attention to this matter.

Respectfully,

Canyon Lakes Property Management
On Behalf of the Board of Directors

EXHIBIT G

SACHS SAX CAPLAN

ATTORNEYS AT LAW

SUITE 200
6111 BROKEN SOUND PARKWAY NW
BOCA RATON, FLORIDA 33487

TELEPHONE (561) 994-4499
DIRECT LINE (561) 237-6844
FACSIMILE (561) 994-4985

RYAN D. POLIAKOFF, ESQ.
rpoliakoff@ssclawfirm.com

May 28, 2013

VIA CERTIFIED MAIL/RETURN RECEIPT
REQUESTED AND FIRST CLASS MAIL

Elconides J. Arango
10354 Gentlewood Forest Drive
Boynton Beach, Florida 33473

Re: Canyon Lakes Homeowners Association, Inc.
Violation of Restrictive Covenants
Our File No. 6461.01

Dear Mr. Arango:

As you are aware, this firm represents Canyon Lakes Homeowners Association, Inc. (the "Association"). As discussed in prior communications, including our letters of March 27, 2013 and April 10, 2013, the Association has now completed its tenancy review of lot occupant Arney Arango.

Please be advised that Mr. A. Arango has been rejected as an occupant/tenant of your lot. The Declaration of Covenants, Restrictions and Easements for Canyon Lakes (the "Declaration") specifies, in Article X, Section 5, that the tenant's status as a "registered sexual offender" provides sufficient reason to disapprove a prospective tenant. As Mr. A. Arango is registered by the Department of Corrections as a Sexual Offender, his occupancy has been rejected, and he will not be allowed to remain on the property.

Please ensure that Mr. A. Arango vacates your property within forty-eight (48) hours of receipt of this letter. Any continued occupancy by Mr. A. Arango will be met with legal action, including but not limited to a lawsuit requesting an injunction against Mr. A. Arango prohibiting him from entering Association property. You should also be advised that the Association governing documents require you to be responsible for all of the Association's costs and attorneys' fees necessary to enforce the documents.

EXHIBIT H

THE LAW FIRM OF
FRANK • WEINBERG • BLACK, P. L.

JILL B. BERKMAN
DAVID W. BLACK
EDWARD B. DEUTSCH
STEVEN W. DEUTSCH
STEVEN C. ELKIN
NEIL G. FRANK
E. J. GENEROTTI
JACQUELINE A. GRADY***
LEORAH G. GREENMAN*
BRUCE HURWITZ
MICHAEL A. KAMMER
STEVEN B. KATZ
HOFIT N. LOTTENBERG

JOEL MARTIN McTAGUE**
CONSTANTINA MIRABILE
RANDY J. NATHAN*
MARC A. SILVERMAN
ROBERT T. SLATOFF
MARIA P. SPILIOPOULOS*
A. TOM SPYREDES
DAVID N. STERN
LEANNE B. WAGNER
STEVEN A. WEINBERG
*MEMBER NEW YORK BAR
**MEMBER D. C. BAR
***MEMBER P. A. BAR

July 8, 2013

Via Certified Mail:
7012 3460 0001 7271 7629
And Regular Mail

Nodier and Brenda Cairo Arango
7910 NW 70th Avenue
Parkland, FL 33067

RE: Parkside Estates Property Owners Association, Inc.
Our File No: 8595-0

Dear Mr. and Mrs. Arango:

Please be advised that this law firm represents Parkside Estates Property Owners Association, Inc., (the "Association"). It has come to the Association's attention that you have recently moved Arney Arango into your home. All adult residents of the community must be screened and approved by the Association. Typically, this letter would require that Mr. Arango submit an application within ten days; however, given the circumstances described by the Florida Sexual Offender Report attached hereto, I have been advised by the Board of Directors that Mr. Arango, even if screened, would not be approved for residency within the Parkside Estates community.

Please make immediate arrangements to relocate Arney Arango and provide written documentation to my office regarding the same. In the event that the Association feels that this relocation process is either moving too slowly or not being taken seriously, the Association has instructed my firm to proceed against you with a lawsuit to eject Arney Arango as an unauthorized occupant within the Parkside Estates community. Pursuant to the terms of the Declaration of Covenants, Conditions and Restrictions, the Association has the power to bring such an action and assess the legal fees for doing so against your unit.

Pease do not hesitate to contact me with any questions or concerns. I truly hope that this matter can be resolved outside of the Courts.

Sincerely,

FRANK, WEINBERG & BLACK, P.L.

A handwritten signature in black ink, appearing to read 'S. Katz', written over a horizontal line.

Steven B. Katz, ESQUIRE
For the Firm

Enc.

cc: Parkside Estates Property Owners Association, Inc.