

NUTS & BOLTS

OPENING THE FILE & OTHER INITIAL STEPS OF REPRESENTATION

THE APPOINTMENT SHEET

- Opening the File
- In or Out of Jail?
 - Bond/Furlough issues
 - Hold – Probation, ICE, other jurisdiction
- GOLDEN TICKET - BILLING!!!!



OWDS APPROVED TIME

- Review appointment sheet, open file, phone call to client, letter to client;
 - Download probable cause statement, bond information, background check on client, complainant, witnesses, etc.
 - REVIEW ALL PRIORS → Will need for meeting with client and presumptive sentencing calculations
 - STATUTES
 - OFFENSE OR CHARGE
 - SENTENCING & GUIDELINES
 - MISC.
-

STATUTES

- OFFENSE OR CHARGE
 - Underlying offense;
 - Possible lesser-included or non-included offenses,
 - Affirmative defense statutes
 - Enhancement statutes
 - READ THE STATUTE CHARGED!!!!
 - Read definitions included with Statute
 - Read the annotated cases in the Statute book
 - SENTENCING & GUIDELINES
 - Restitution, Community corrections/work release, split sentencing, presumptive calculations, mandatory minimums, special cases – DUI, sex offense, etc.
 - MISC.
 - Youthful offender, probation revocation statutes, Admin. Code, etc.
-

STATUTE WAR STORIES

- Statute charged particularly important for DUIs! → I've had a case dismissed because wrong statute on the probable cause statement. **Per Ron Smith "Keep your mouth shut"**
- Pistol without a permit; 13A-11-70 & 73 → Barrel must be 12 inches or less. Had charge tossed because body cam showed gun that looked like rifle and police called it a "rifle." DUI was also charged and the gun not brought to court. Charged dismissed.
- Vehicle Theft → Seen charging sheets and indictments charging 13A-8-3(a) instead of (b).
 - If (a) then must prove value of vehicle above \$2,500 instead of value being presumed under (b).

PRELIMINARY DISTRICT COURT MOTIONS

NOTICE OF APPEARANCE

DOCUMENT 3

ELECTRONICALLY FILED
12/2/2019 1:14 PM
47-DC-2019-008316-00
CIRCUIT COURT OF
MADISON COUNTY, ALABAMA
DEBRA KUEZ, CLERK

IN THE DISTRICT COURT FOR MADISON COUNTY, ALABAMA

STATE OF ALABAMA,
Plaintiff,

vs. CASE NO: DC19-8316

KATERINA VALENTINOU WILSON,
Defendant.

WAIVER OF APPEARANCE AND PLEA OF NOT GUILTY

Comes now the Defendant, Katerina Valentinou Wilson, by and through her undersigned counsel, and respectfully waives her appearance at the docket set for December 12, 2019, at 1:30 p.m. before this Honorable Court; and, that she enters her plea of not guilty.

/s/ Robin C. Wolfe
ROBIN C. WOLFE (CLE032)
Attorney for the Defendant
221 Eastside Square, Suite 3A
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CERTIFICATE OF SERVICE

I hereby certify that I have delivered a true and accurate copy of the above to the Assistant District Attorney, Mrs. Robin Drake, by electronically filing the foregoing with the Clerk of the Court using the Alabama e-filing system on this the 2nd day of December 2019.

/s/ Robin C. Wolfe
ROBIN C. WOLFE

DEMAND FOR PRELIMINARY HEARING

DOCUMENT 6

ELECTRONICALLY FILED
2/10/2020 12:27 PM
47-DC-2020-000830-00
CIRCUIT COURT OF
MADISON COUNTY, ALABAMA
DEBRA KUEZ, CLERK

IN THE DISTRICT COURT OF MADISON COUNTY, ALABAMA

STATE OF ALABAMA,
Plaintiff,

vs. CASE NOS.: DC20-0830 PMT
DC20-0831 PMT

JESSE COLE ALLISON,
Defendant.

DEFENDANT'S DEMAND FOR PRELIMINARY HEARING

COMES NOW the Defendant, Jesse Cole Allison, by and through his undersigned counsel, and demands a preliminary hearing to be held within the period authorized by Alabama Law.

Dated this the 10th day of February.

/s/ Robin C. Wolfe
ROBIN C. WOLFE (CLE032)
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CERTIFICATE OF SERVICE

I hereby certify that I have delivered a true and accurate copy of the above to the Assistant District Attorney, Mrs. Allison Blackburn, by electronically filing the foregoing with the Clerk of the Court using the Alabama e-filing system on this the 10th day of February 2020.

/s/ Robin C. Wolfe
ROBIN C. WOLFE

PRELIMINARY DISTRICT COURT MOTIONS

MOTION FOR DISCOVERY

DOCUMENT 9

ELECTRONICALLY FILED
3/2/2020 3:48 PM
47-DC-2020-001472-00
CIRCUIT COURT OF
MADISON COUNTY, ALABAMA
DEBRA KUEZ, CLERK

IN THE DISTRICT COURT OF MADISON COUNTY, ALABAMA

STATE OF ALABAMA,
Plaintiff,

vs. CASE NO: DC20-1472 PMT

AENEAS MARKELL BLANKS,
Defendant.

MOTION FOR DISCOVERY

COMES NOW, the above mentioned Defendant, by and through his undersigned attorney, and moves for discovery under Rule 16, of the Alabama Rules of Criminal Procedure and asks the Court for the following information:

1. STATEMENT OF THE DEFENDANT: That the District Attorney permit the Defendant to inspect and copy any written or recorded statements made by the Defendant to any law enforcement officer, official, or employee which are within the possession, custody, or control of the State, the existence of which is known to the District Attorney; and to disclose the substance of any oral statements made by the Defendant before or after arrest to any law enforcement officer, official or employee which the State intends to offer in evidence at trial.

2. DOCUMENTS AND TANGIBLE OBJECTS: That the District Attorney permit the Defendant to analyze, inspect and copy or photograph books, papers, documents, video tapes, photographs, tangible objects, controlled substances, buildings or places or portions of any of these things, which are within the possession, custody or control of the State, and: (1) which are material to the preparation of his defense; (2) which are intended for use by the State as evidence at the trial; or (3) which were obtained from or belong to the Defendant.

3. REPORTS OR EXAMINATION AND TESTS: That the District Attorney permit the Defendant to inspect and copy any results of reports or physical or mental examinations or scientific tests or experiments, in the examination, tests, or experiments were made in connection with the particular case and the results or reports are within the possession, custody or control of the State, and their existence is known to the District Attorney.

4. EXCULPATORY MATERIAL: That the District Attorney further produce for the Defendant any and all evidence or information which is or appears to be supportive of the innocence of the Defendant.

5. That the District Attorney produce full names, address and telephone numbers and whereabouts of all witnesses to be called by the State in the trial of the Defendant and any other defendants named in the above styled case.

MOTION TO PRESERVE EVIDENCE

DOCUMENT 8

ELECTRONICALLY FILED
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47-DC-2019-002309-00
CIRCUIT COURT OF
MADISON COUNTY, ALABAMA
DEBRA KUEZ, CLERK

State v. Lopez
Defense Motion #3

IN THE DISTRICT COURT OF MADISON COUNTY, ALABAMA

STATE OF ALABAMA,
Plaintiff,

vs. CASE NO: DC19-5309

ADRIAN MIGUEL LOPEZ,
Defendant.

MOTION TO PRESERVE EVIDENCE

Comes now the Defendant, by and through counsel, and moves this Honorable Court for an order directing the prosecutor and all law enforcement officials involved in the investigation into the circumstances surrounding the acts of allegations made the basis of the arrest and criminal charge against the Defendant to preserve all evidence seized during their investigation, including handwritten notes, exculpatory and inculpatory evidence related to said offense. As for grounds, the Defendant states as follows:

1. The Defendant is currently charged with the offense of Capital Murder.
2. The Defendant assumes that the investigating authorities may have evidence relating to the alleged offense that allegedly supports the issuance of the arrest warrants made the basis of this cause of action.
3. In defense of the allegations, the Defendant is in need of the investigative notes, charts, reports, tape recordings, and any and all documents which may have been produced or obtained by the law enforcement offices during their investigations, or the State.
4. The Defendant desires copy of patrol video and any video, audio or other recorded statements of the parties and any other tangible evidence.
5. The Defendant desires to prevent spoliation of evidence.

Wherefore, the premises considered, Defendant moves this Honorable Court for an order directing the prosecutor and all involved law enforcement officials to preserve, by the best available means, all items of evidence or other materials seized or generated during the investigation into the circumstances made the basis of this cause of action.

/s/ Robin C. Wolfe
ROBIN C. WOLFE (CLE032)
Attorney for the Defendant

/s/ Trey M. Woodfin III
TREY M. WOODFIN III (WOO143)
Attorney for the Defendant

PRELIMINARY DISTRICT COURT MOTIONS

6TH AMENDMENT ASSERTION

MEETING/INTERVIEWING YOUR CLIENT

- **CLIENTS LIE. EVERY. SINGLE. ONE.**
 - Build trust. Don't lead with investigative or serious questions.
 - NOT Did you do it? Where's the body?
 - Many clients will not trust you at first and will be hesitant to tell you the truth about tough facts or ultimate conclusions.
 - Easier questions to "get to know the client" are better
 - Where are you from? Where did you go to high school? Sports or clubs? Do you work? Children or family?
 - Develop a rapport with client
 - Basic information is often more pertinent for initial issues
 - Bond, Pre-trial diversion or Drug Court, Mental Health Court
 - Lead into more serious questions → Criminal history, location of events, witnesses/alibis
-

MEETING/INTERVIEWING YOUR CLIENT MORE SUBSTANCE

- **CRIMINAL HISTORY**
 - Have it printed and go over it with them!!!
 - Get details on conviction and compliance on probation/parole if applicable
 - Ask about out-of-state cases → Arrests and Convictions
 - **WITNESS/ALIBI/CO-DEFENDANTS**
 - Who else was present at time of arrest.
 - Who were you with before arrest?
 - Get as many perspectives on case and facts as you can
 - Where you find different versions of events is where you find REASONABLE DOUBT!!!
-

INTERACTION WITH LAW ENFORCEMENT & CLIENT STATEMENTS



INTERACTION WITH LAW ENFORCEMENT & CLIENT STATEMENTS

- TRAFFIC STOP
 - DUI
 - Field Sobriety
 - Body camera
 - Refuse to blow?
 - Terry Frisk/Pat Down FOR WEAPONS!!!
 - Consent to search vehicle
 - Driving or passenger?
 - Warrant?
 - Admissions...
-

STATEMENTS/ADMISSIONS TO LAW ENFORCEMENT

- Interviews with police
 - Name of investigator
 - How many interviews?
 - Where?
 - Miranda?
- Pre-Miranda statements
 - At scene of the offense? If not, where?
 - What time?
 - How many officers?
 - Intoxicated? Mental deficiency? Concussion? Etc.
 - THEN → What did they ask and what did you tell them?



LITTERING AND....

MANAGE CLIENT EXPECTATIONS

- PRIORS ARE BAD
 - Especially for the same offense
 - History of FTA or non-compliance on probation
 - NO 4TH AMENDMENT ISSUES AT PRELIMINARY HEARING!!!
 - NO 2 CASES ARE THE SAME
 - Doesn't matter what brother's girlfriend's cousin got for a plea offer on his case
 - DON'T MAKE GRAND PROMISES, BUT SMALL PROMISES ARE FINE
 - We will win → BAD!
 - I will file your bond motion today → GOOD!
-

SUPPLEMENTARY DISTRICT COURT MOTIONS

MOTION FOR FURLOUGH

DOCUMENT 22

ELECTRONICALLY FILED
10/12/2019 10:31 AM
47-DC-2019-00217-00
CIRCUIT COURT OF
MADISON COUNTY, ALABAMA
DEBRA KIZER, CLERK

IN THE CIRCUIT COURT OF MADISON COUNTY, ALABAMA

STATE OF ALABAMA,
Plaintiff,

vs.

CASE NUMBERS: CC19-0322
DC19-4217

CHARLES ALAN ROBINSON,
Defendant.

MOTION FOR FURLOUGH

Comes now the Defendant, Charles Alan Robinson, by and through his undersigned counsel, and respectfully requests that this Honorable Court grant the Defendant a furlough for drug and alcohol treatment. As grounds for the relief requested, the following information is provided for this Court's review and consideration:

1. Mr. Robinson is charged with Theft of Property 3rd degree and Possession of a Controlled Substance. He has been incarcerated at the Madison County Jail since July 1, 2019.
2. His Way Recovery Center has provided verification that they have a bed available for Mr. Robinson on October 16, 2019, at 9:00 o'clock a.m. The acceptance letter provided by His Way Recovery Center is attached hereto for reference marked as Exhibit #1.
3. The assigned Assistant District Attorneys, Mr. Chris Donovan and Mrs. Lenia Pearson, are not opposed to this motion.

Wherefore, the premises considered, the undersigned counsel respectfully requests that this Honorable Court grant Mr. Robinson's request for furlough so that he can participate in the in-patient treatment program at His Way Recovery Center.

/s/ Robin C. Wolfe
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MOTION FOR BOND REDUCTION

DOCUMENT 24

ELECTRONICALLY FILED
10/20/2019 11:36 AM
47-DC-2019-00250-00
CIRCUIT COURT OF
MADISON COUNTY, ALABAMA
DEBRA KIZER, CLERK

IN THE DISTRICT COURT OF MADISON COUNTY

STATE OF ALABAMA,
Plaintiff,

vs.

CASE NOs: DC19-8093 PDD
DC19-8489 PDD
DC19-8501 PDD

ANTHONY DIONTE HAMMONDS,
Defendant.

MOTION FOR BOND REDUCTION

Comes now the Defendant, Anthony Dionte Hammonds, by and through his attorney of record, Robin C. Wolfe, and respectfully requests that this Honorable Court set reasonable bond, and shows unto the Court as follows:

1. The bond is currently set at thirty thousand dollars (\$30,000.00) for the charge of Theft of Property 1st degree, five thousand dollars (\$5,000.00) for Theft of Property 3rd degree, and one thousand five hundred dollars (\$1,500.00) for Theft of Property 2nd degree.
2. The Defendant has remained incarcerated in the Madison County Detention Facility since October 28, 2019, unable to make bond.
3. The Defendant is a lifelong resident of Madison County.
4. Prior to his incarceration, the Defendant was gainfully employed at Dickey's Barbeque Pit and hopes that his job will be available to him.
5. The Defendant is not currently on probation or parole; therefore, no revocation proceeding is pending.

Wherefore, the premises considered, the Defendant respectfully requests this Honorable Court reduce the bond in this matter.

/s/ Robin C. Wolfe
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Attorney for the Defendant
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Huntsville, Alabama 35801
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robini@robincwolfe.com

CERTIFICATE OF SERVICE

I hereby certify that I have delivered a true and accurate copy of the above to Assistant District Attorney, Mr. Paul Blumet, by electronically filing the foregoing with the Clerk of the Court using the Alabama e-filing system on this the 6th day January 2020.

/s/ Robin C. Wolfe
ROBIN C. WOLFE

BOND REDUCTION & FURLOUGH

- BAIL SCHEDULE

- | | |
|----------------------|----------------------|
| • CAPITAL | \$50,000 – NO BAIL |
| • MURDER | \$15,000 - \$150,000 |
| • CLASS A FELONY | \$10,00 - \$60,000 |
| • CLASS B FELONY | \$5,000 - \$30,000 |
| • CLASS C FELONY | \$2,500 - \$15,000 |
| • CLASS D FELONY | \$1,000 - \$10,000 |
| • MISD. & VIOLATIONS | \$300 - \$6,000 |

BOND REDUCTION & FURLOUGH CONT'D

- **TIES TO COMMUNITY**

- Residence, work, high school, family, church, organizations, etc.

- **RISK OF HARM TO COMMUNITY**

- Criminal history (previous bond or probation revocations), nature of current offense
- Some risk can be eliminated with special bond requirements – i.e., no contact with victim

- **FLIGHT RISK**

- Access to car? Have driver's license? Family or contacts out-of-state? Currently working in town? History of FTAs? Eluding police as part of offense?

- **MISCELLANEOUS**

- Theft/property cases – Compare value of property or asset alleged to be stolen vs. amount of bond
 - Once had a \$10,000 bond for a Receiving Stolen Property 1st degree charge on a 1992 Chevrolet truck with 286,000 miles on it
 - Truck was recovered at the time of arrest and was worth \$1,700 per Kelly Blue Book
 - BUT.... Client had prior theft convictions → Judge still reduced to the minimum for Class B felonies \$5,000.00

- **YOU CAN REFILE BOND MOTIONS DEPENDING ON CHANGE IN CIRCUMSTANCES**

- State's continuance, family emergency, new place to reside, completion of SAP or other programs/sentence, etc.

PRESUMPTIVE SENTENCING GUIDELINES

- DO YOUR HYPOTHETICAL GUIDELINE CALCULATIONS BEFORE BOND REDUCTION
 - A PRESUMPTIVE “OUT” IS A HUGE LEVERAGE POINT FOR BOND REDUCTION
 - Why should Defendant have to stay in jail while innocent, only to be released after found guilty?
 - Presumptive guidelines take into account criminal history and prior probation revocations ALREADY, so use that to combat those elements from the State’s attorney. But don’t get your hopes up → Priors are bad...
 - DOES NOT TAKE INTO ACCOUNT PRIOR BOND REVOCATIONS OR FTA’S SO BEWARE OF THAT
-

BOND REDUCTION & FURLOUGH CONT'D

- **FURLOUGH PROCESS**

- Does the client actually WANT rehabilitation?
 - Family always wants it, but clients not always keen on in patient rehab
 - Client may be in worse situation for bond if leave rehab before completion
 - Contact facility for application and assessment forms
 - Can be sent directly to the client in jail
 - Receive letter from facility – Need certain information
 - On facility letterhead
 - Approving client for in patient rehabilitation
 - Setting date or time range that bed will be available
 - Naming an employee as transport option or requiring family member for transport
-

PRELIMINARY HEARING

- TEST THE LIMITS OF DISCOVERY VS. PROBABLE CAUSE
 - IF IT IS RELEVANT, ASK UNTIL THE JUDGE SUSTAINS OBJECTION
 - DO NOT INTERRUPT → DOESN'T MATTER IF TESTIMONY IS GOOD OR BAD. LET THE STATE'S WITNESS RAMBLE AND TALK BECAUSE BAD INFORMATION/EVIDENCE IS BETTER THAN NO INFORMATION/EVIDENCE
 - NO DISMISSALS FOR 4TH AMENDMENT ISSUES
 - Does not necessarily mean you cannot ask questions about search/seizure process, JUST NO SUPPRESSION
 - Consent
 - Warrant
 - Terry Frisk
-

PRELIMINARY HEARING

- NAMES OF OFFICERS/INVESTIGATORS
 - Who was on scene?
 - Who spoke to victim/witnesses?
 - Who spoke to Defendant?
 - CHAIN OF CUSTODY
 - Location of tangible evidence
 - How did it get to police custody
 - Sent to lab for any testing? When? Who sent it?
 - Ask for tangible evidence to be preserved per motion
-

PRELIMINARY HEARING

- **HAVE A SET OF SPECIFIC GOALS**
 - Discovery/investigation
 - Get relevant information regarding offense in front of Court for bond reduction purposes
 - Preserve witness testimony
 - BRING YOUR COURT REPORTER!!!
 - **JOE LAMPLEY WAR STORY.**
 - Establish value/restitution
 - How was value of stolen item determined?
 - Was item returned?
 - Some underlying facts may soften Defendant's image or offense
-

PRELIMINARY HEARING - DISMISSALS

- **REMEMBER TO MANAGE CLIENT EXPECTATIONS**

- State can re-file and go straight to grand jury
- Client will have to re-post bond
- State may know your defense if you make case for improper charge or something else that is fixable

- **LEGAL VS. FACTUAL**

- If legal, **best to have some good facts or practicalities on your side to prevent re-charge**
 - **EXAMPLE** → Domestic Violence - Trespassing dismissed at preliminary hearing because complainant “trespassed” her husband from their apartment. Lease does not equal ownership for authority to trespass. Court determined that only the landlord can issue a trespass on a rented residence.
 - Also had affidavit from complainant stating that client was not abusive or violent but that he had come home drunk and she did not want to put up with him.
- If factual, make sure that the facts are fatal and non-cureable
 - **EXAMPLE** → SORNA case dismissed where client’s residence did not have water or electricity, so he had to shower and cook at a friend’s house, then would sleep at his utility-less rented home. SORNA officer admitted she knew about utility issue and also admitted that she knew my client worked 8-5. Testified that she stopped by utility-less rental house during hours client was working, only knocked once, and only waited for 2-3 minutes before leaving and filing charge.