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This space reserved for filing stamp.

3
4 This is an E-brief! For your convenience this document has been published on the internet in 3 formats. In
5 addition I have hyperlinked all or most of the cases and statutes. Just click on the hyperlink; I save you a
6 trip to the law library. You are welcome. If you are reading a paper copy of this brief you can reach the e-

7 This motion is: <http://www.lawyerdude.netfirms.com/ignace.html> and
8 <http://www.lawyerdude.netfirms.com/ignace.pdf>

9 Related pages:

10 Complete anotated E-file in the St. Ignace case: <Http://ronfox.250free.com>
11 Ron taken off sex registry roll: <http://www.lawyerdude.netfirms.com/8399.html>
12 Ron Fox federal case: <http://www.lawyerdude.netfirms.com/7045.html>

13 **Version #0.703 Work in Progress.**

14 **50th Judicial Circuit of Michigan**

15 3rd Floor, Courthouse, 100 Marley, St. Ignace Michigan, 49781
16 906 643 7343
17 Judge Nicholas J. Lambros

18 People

Case number: 9512215

19 v

20 Ronald Lee Fox, sui juris

Document #6655. Version 0.703

21 **Demand/ request to re-open case and dismiss for absence of factual basis for plea.**

22 **In the alternative, application for writ of error coram vobis.**

23 Declaration of Attorney Douglas Palaschak upon reviewing the file.
24 Declaration of Defendant Ron Fox, falsely accused.

25 Proposed Venue for this motion on short notice:

26 Date: **Tuesday 28 May, 2009. We can only attend by phone.**

27 Time: 1:30

28 Place: Court of Judge Lambros

29 **Demand to Re-open case and dismiss because defendant was sleeping.**

30 To the prosecutor: At the venue designated in the above caption I will ask the court to dismiss this
31 case nunc pro tunc. I was sleeping at the time of the alleged offense. The alleged victim jumped into my
32 bed while I was sleeping and then left before I awoke. She made no allegations until weeks later. The
33 crime prescribes a specific mental state. I did not and could not have had that mental state; I was
34 sleeping! Ineffective assistance of counsel prevented me from discovering this legal mistake. I am
35 borderline mentally disabled and did not understand the legal fictions, lies, and fraud promulgated by the
36 court in this case.

Signed _____ Ron Fox. Monday, March 30, 2009

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Declaration/ Statement of the case by Attorney Douglas Palaschak:
Procedural Posture

Mcl 750.520e Criminal **sexual conduct** in the fourth degree; misdemeanor.

Ron pleaded to “attempted criminal sexual conduct”. This is ludicrous because the missing element of the crime is intent. The plea indicates an attempt with a completed act; in fact the facts point to an act of a sleeping person with no intent.

On 1 July 1999 a Judge whose name is illegible signed an Order of Discharge discharging Ron Fox from his 2 year probation.

Does the common law require dismissal of charges in call cases of probation?

The finding of guilt was not set aside - because the form did not present that option for this crime. The form did however say “Defendant is discharged from . . . Any unfulfilled obligations of condition of the sentence imposed by this court. . .” See Exhibit #1, page 1 of the court record.

<http://ronfox.250free.com/ronfox001.html>

Note: I have numbered the pages from the top. Page 220 is the last page of my copy of the court record. Page 220 is the first paper inserted into the court file; page 220 is at the bottom of the stack.

I thought my obligation to register was discharged. That’s what the paper says.

Years later Ron was arrested for failure to re-register as a sex offender. If this obligation to register was imposed by the court, then it is terminated.

Sex Registration cases have never gone before the U.S. Supreme Court. A similar statute, that sentencing statute in the Bradley case, has gone before the court.

Nobody warned Ron. Conversely, they defrauded him by telling him in writing that his obligations would

1 be terminated after 2 years. The registration law was already in effect at the time of Ron's sentencing and
2 also 2 years later at the time of his discharge from his obligations imposed by his terms of probation. It
3 the judge intended to discharge the obligation to re-register then the legislature has unconstitutionally
4 invaded the province of the sentencing judge - as it did in Bradley. If the judge did not intend to discharge
5 the re-registration requirements then the court had an obligation to so inform defendant Ron before he
6 pled guilty. Failure to inform Ron vitiates Ron's plea.

7 If it is imposed by the legislature then it has the same status as the mandatory sentencing
8 guidelines that were found to be unconstitutional in the Bradley case just this year. Also, a law is
9 unconstitutional if it imposes a penal burden without benefit of the insulation of a judge and jury. Such a
10 law is a bill of pains and penalties.

11 **Facts of the case.**

12 Ron Fox is a gregarious, upbeat, friendly, cheerful, hard-working, loyal, helpful, courageous, kind
13 human being. He could be a boy scout. You won't find anybody who will say a bad thing about Ron Fox
14 except for emotional hysterical people who have read the lies about him on the sex offender registry. In
15 view of the fact that Michigan's unconstitutional sex registry lumps all persons in one class (and gives no
16 information about the alleged offense) people in Ron's neighborhood don't know if he is a weenie wagger
17 or a serial rapist. Megan's law is a good example of the cliché that says "Hard cases make bad law".
18 The pendulum has reversed; Megan's laws are being repealed and weakened. Michigan's version of
19 Megan's law was ruled unconstitutional by Federal Judge Victoria Roberts. The federal court of appeals
20 reinstated the unconstitutional law in a case factually distinguishable from Ron's. In Arizona the defective
21 law resulted in an unlawful eviction and lawsuit against the city of Tempe in the case of Jennifer Simmer.
22 Her boyfriend from Michigan was registered for an act that is no longer a crime in Michigan. Arizona
23 classifies sex offenders. The boyfriend, like Ron, was accused of the least serious offense - but Michigan
24 lumps all accused offenders into one group and does not release facts about the case. Tempe's law
25 required that if no information or classification is available, the registrant shall be grouped into the mid
26 range. Michigan's bad causes injury and grief throughout the United States.

27 We need not argue the merits of the law; Ron is factually innocent of the underlying crime and is
28 otherwise not subject to the law. "Otherwise" means that his underlying plea agreement specifically
mentioned registration and said that all burdens and penalties would be terminated upon completion of the
2 year probation. Ron served 1 day in jail for the misdemeanor even though he was then and is now
innocent. We need not rely on the theory of renegeing on the plea agreement. Ron is factually innocent.
The 220 page court record from Saint Ignace, recently obtained, supports his factual innocence.

Ron Fox is innocent of the underlying alleged misdemeanor that is the reason for his having been
posted in the sex offender registry.

Ron Fox suffered 3 head injuries during his life. His head was run over by a car not once but
twice in two separate incidents during his childhood. Then in his early adulthood he fell through a

1 staircase landing on his head. Although Ron accommodates marvelously, testing reveals an IQ of 79 in
2 some areas of complicated logic. Ron did not know that there is a specific mental state required for the
3 misdemeanor of which he was falsely accused. Ron's lawyers did not know. The judge who took his plea
4 did not know. Nobody told Ron about this mental state. Nobody took the time to inquire. Ron is accused
5 of the weakest act of "Criminal Sexual Conduct". An element of Criminal Sexual Conduct is "Sexual
6 contact". "Sexual contact" is specifically specified in the statute and is defined in a earlier nearby section
7 as follows:

8 750.520a Definitions . . .

9 (n) "Sexual contact" includes the intentional touching of the victim's or actor's
10 intimate parts or the intentional touching of the clothing covering the immediate
11 area of the victim's or actor's intimate parts, if that intentional touching can
12 reasonably be construed as being for the **purpose of sexual arousal** or
13 gratification, done for a sexual purpose, or in a sexual manner for:

14 **(i) Revenge.**

15 **(ii) To inflict humiliation.**

16 **(iii) Out of anger.**

17 In Ron's case he was sleeping when he committed the alleged act. That much is undisputed.

18 In early February 1995 Ron Fox, a married man, drove 4 hours to the home of his brother Rick
19 Beaver. (Although the record does not say, the event seems to have been the funeral of Ron's
20 Grandmother.) Ron had previously changed his name to avoid association with his siblings who were all
21 older than Ron and who had molested the injured/ disabled youngest sibling Ron as a child. As the
22 youngest, Ron grew accustomed to his role as a scapegoat. True to form, Ron accepted his scapegoat
23 role in 3 cases:

24 1. In the instant case Ron entered a false plea of guilty in order to relieve the prosecution of its
25 burden.

26 2. In the traffic case Ron entered a false plea of guilty while being held in jail until he agreed to
27 plea guilty. He had been ordered imprisoned by an angry judge Alston at the request of antagonistic
28 disloyal attorney Jennifer Barnes. After the test they illegally held Ron for 90 days - until he pleaded guilty
in order to escape from jail. This plea was coerced by false imprisonment. The alleged crime was fleeing
and eluding, but, once again Ron suffered incompetent appointed counsel. Nobody told Ron that eluding
requires some act such as acceleration, taking a side road, or some other act of elusion. Ron had simply
continued his journey home, less than 1 mile away.

3. In the underlying case back in 1995 - 1997 Ron ultimately pleaded guilty in order to resolve the
case which dragged on for 2.5 years. Ron's plea there was not an informed plea. He knew that he was
asleep but nobody ever told him that sleep precluded the requisite mental state.

Details of Ron's alleged act.

1 Ron stayed overnight at his brother's house on February 5, 1995. As has been the custom for
2 Americans for generations, a child gave up a bed for an adult. In this case Ron's 8 year old niece traded
3 bedrooms with her older brother. Ron and his nephew slept in the niece's bedroom. The niece slept in
her brother's bedroom.

4 The niece later jumped into bed between Ron and his nephew. The niece slept with her head at
5 the foot of the bed - as is the custom when there are too many people in one bed. As to the reason for the
6 niece jumping in to the bed, there are conflicting reasons presented. The niece changed her story to one
7 that relieves her parents of responsibility. One unbelievable story of the niece is that she went to the
8 bathroom and inadvertently went back to her own bedroom that she had traded away for the night. This
9 sounds like a story concocted with mom's help. The other story is that she asked her mom if she could
sleep with "Uncle Ronnie". Her parents were smoking marijuana at the time and mom said yes.

10 Ron had an uneventful sleep and drove the 4 hours back home the next day.

11 Approximately 3.5 months later, the mom (Ron's brother's wife) filed a police report saying that
12 Ron's niece said that Ron had touched the outside of her panties with his hand in her pubic area. Ron's
13 brother called Ron. Ron mentioned it to his wife, Gail. She exclaimed "Ron, that's what you do to me in
your sleep!" Ron had no way of knowing that "sleeping aint molesting". Nobody ever told him about
mens re! Apparently his lawyer and the judge never gave it a thought.

14 Within the week Ron voluntarily drove the 4 hours back to St. Ignace and told the police what
15 happened. Ron thought that touching in his sleep was a crime and nobody told him otherwise. Ron did
not remember having touched the girl; he was sleeping.

16 On June 22, 1995, nearly 4.5 months after the date of the alleged crime a police officer signed a
17 complaint against Ron.

18 The case dragged on for over 2 years. Ron went through several lawyers, several prosecutor,
and several judges.

19 Ron pleaded guilty on the written condition that all burdens of probation, including the sex offender
20 registration, would be removed upon successful completion of 2 years misdemeanor probation.

21 Ron completed that probation and the judge signed off on 1 July 1999.

22 Then, years later, Ron's neighbors found his picture on the internet at the sex registry site. The
23 neighbors stood in front of Ron's house and called him a pervert. Office Aldrich came to Ron's house 20
times to harass him. Ron's wife and child moved away.

24 Then Aldrich falsely accused Ron of "fleeing and eluding". Aldrich broke the windows out of Ron's
van and smashed Ron's face in the broken glass on the ground. Ron sued in federal court.

25 Aldrich claimed a broken bone. The hospital found no broken bone.

26 Ron found Palaschak on the internet.

27 The angry judge Alston imprisoned Ron until he pleaded guilty.

28 Early in 2004 Ron began his effort to obtain his file from St. Ignace. He succeeded. He mailed

1 the file to Attorney Douglas Palaschak in late October. Palaschak picked up the record at the post office
2 on the day before Thanksgiving and read it straight through. This reading took 12 consecutive hours.
3 Palaschak wrote report #6589 to Ron. Ron showed it to his lawyer who did nothing about it.

4 On December 8 Palaschak faxed 6589 to Ron's lawyer who was out of the office.

5 End of statement of case.

6 **Declaration #6615 of Attorney Douglas Palaschak regarding innocence of Ron Fox.**

7 I, Douglas Palaschak, declare the following under penalty of perjury:

8 I am competent to testify. If called to testify I would testify as follows:

9 I have been a licensed lawyer since 1984. I specialize in Constitutional Law, Sex cases, and Drug cases.

10 Two of my cases are in the law books.

11 I have been working for Ron Fox for around a year.

12 Ron has suffered at the hands of really bad lawyers and a judge who is blind.

13 Ron is innocent!

14 Ron struggled to obtain a copy of his file from the underlying sex case in Saint Ignace.

15 Ron sent that file to me a month ago. It sat at the post office around 2 weeks until I got my mail on the
16 day before Thanksgiving.

17 I read the complete file and numbered the pages. 220 pages.

18 I wrote an analysis #6589 explaining that an element of the crime is missing: mental state!

19 Ron took my analysis #6589 to Paul Beggs, his lawyer.

20 Yesterday I faxed a copy of #6589 to Paul Beggs.

21 "Sexual conduct" requires a specific mental state. Four are specified in the statute which I copied in 6589.

22 **I have begun to prepare papers to file in St. Ignace to vacate the conviction -**
23 **which should have been done upon completion of Ron's probation - and was**
24 **done - sorta.** Ron was specifically told in writing that the sex registry reporting would end with his

25 probation. Ron is mentally disabled. He cannot understand how the state makes a deal in writing and
26 then reneges. He was denied effective assistance. The file shows clearly that he was sleeping and
27 therefore could not have had the specific intent of lust, anger, revenge, or humiliation.

28 The sentencing should be postponed and the plea withdrawn. This bad lawyering must stop!

Signed under penalty of perjury:

Signed by Ron Fox for Palaschak with permission of Palaschak.

Douglas Palaschak _____ Wednesday, December 8, 2004

Declaration of Ron Fox

I, Ron Fox, declare the following under penalty of perjury:

I am innocent. Nobody told me the elements of the crime. I was sleeping. I don't remember doing it.

Until that happened I did not know that I do that in my sleep. My wife Gail told me that I do that in my

1 sleep sometimes. Now I am informed that this is called "parasomnia" and "sexsomnia".

2 **Argument**

3 I need time to work this case. Finally I got my files from St. Ignace. Finally Palaschak received
4 them. He read them. He says that I am innocent. I need to undo all the wrongs that have been done to
5 me. Please vacate this sentencing date. I want to withdraw my plea in this case and I want to vacate my
6 plea in the 1995 case.

Signed _____ Ron Fox. Monday, March 30, 2009.

7 **Proof of Service**

8 I, (print your name) _____, declare the following under penalty of perjury: On (date)
9 _____ I served this motion #6655 upon the prosecutor's office by mail to this address:

_____ Thereafter I mailed this motion to the court at this address:

10 Signed _____ Date:
11 _____

12 **List of Exhibits and Hyperlinks to E-exhibits:**

- 13 1. <http://ronfox.250free.com/ronfox001.jpg> Page 1 of the 220 page record. Petition and Order for
14 Discharge from Probation. 1999 July 1. Judge signed order discharging Ron from all obligations
15 imposed by this court. Despite this, the state imposes obligation to pay \$35 and to report as a sex
16 offender. Ron was not informed of this consequence of his plea
- 17 2. Pages 32, (<http://ronfox.250free.com/s32.jpg>), 33 (<http://ronfox.250free.com/s33.jpg>),
18 and 34 (<http://ronfox.250free.com/s34.jpg>) of the Preliminary Examination which was
19 held on September 26, 1995. This is where Defense Attorney Rasor said that there is
20 "not an inkling . . . of evidence" of intent. The judge based intent upon Ron's having
21 voluntarily come to the police station. That will not stand! The judge said that Ron's
22 admission implies consciousness of guilt, but the judge is way wrong. There was no
23 consciousness of guilt during the 4 months before the alleged crime was reported. Ron's
24 motive was altruism. Ron's said that he must have done it. He did not remember doing
25 it. Furthermore, merely intending to touch the panties is not enough. There are 4 mental
26 states prescribed in the statute. Nobody pointed to any one of them and nobody proved
27 any requisite mental state.
28