



LAW OFFICES OF
PUBLIC DEFENDER
SEVENTH JUDICIAL CIRCUIT
FLAGLER, PUTNAM, ST. JOHNS & VOLUSIA COUNTIES

MATTHEW J. METZ
PUBLIC DEFENDER

June 1, 2022

Nicole Jackson Maldonado
Volusia County Branch Jail

Dear Nicole,

The purpose of this letter is to explain each of the charges, the possible penalties of those charges, and the plea offer. I know that you talk to many people about the decisions that you have ahead of you, but my hope is that this letter might help you understand exactly where you stand in terms of your legal predicament.

You are charged in two cases with nine crimes. I have included a copy of the information(s) (the charging documents) for your review. Let's talk about each charge individually.

The Charges in this case

- 1) Attempted first degree murder of a law enforcement officer, a life felony. In order to prove this crime the prosecutor would need to prove these elements:
 - a. You did some act intended to cause the death of a law enforcement officer.
 - b. You acted with a premediated design to kill. Premediated mean a conscious decision to kill.
 - c. The act would have resulted in the death of (the law enforcement officer) except something, or someone, prevented the killing (of the officer).

Count 1 is a life felony. This means that if convicted of this count, the Judge must sentence you to life in prison without the possibility of parole. There is a mandatory minimum sentence that is applied to this count as well. This is known as 10/20/life and it establishes certain mandatory sentences for crimes that involve the use of firearms. In your case a 20 year minimum mandatory sentence would apply due to the possession and discharge of the firearm.

- 2) Burglary of a dwelling while armed with a firearm, a first degree felony punishable by life.

In order to prove this crime, the prosecutor would have to prove these elements:

 - a. You entered and remained in a dwelling that was not yours with the intent to commit a crime therein.

- b. While in the home you became armed with a firearm. Note that it is not required that they prove that you were armed *before* you entered the home. Arming yourself once you are in the home is proof enough to satisfy this element.

Count 2 is a first degree felony punishable by life. The maximum sentence for a first degree felony is typically 30 years, but this is a special first degree felony that has been designated to have up to a life sentence as the possible punishment. In short, this means that the judge can sentence you up to a life sentence on this count alone.

- 3) Criminal Mischief over \$1,000 dollars. A third degree felony.
In order to prove this crime the prosecutor would need to prove these elements:
 - a. You damaged the property of another person.
 - b. The damage was done intentionally and it caused more than \$1,000 of damage.

Count 3 is a third degree felony. The maximum sentence on a third degree felony is 5 years in prison.

The Charges in the Flagler County Case

As you know, you have a separate case in Flagler County. Any negotiation of a resolution of the Volusia case would need to resolve the Flagler case as well. In the Flagler County case, you are charged with:

- 1) Willfully burning of land (5 counts). Each of these counts is a 3rd degree felony punishable by up to 5 years in prison.

In order to prove these counts the prosecutor will have to prove these elements:

- a. You willfully and intentionally burned or set fire to land or property which,
- b. Was not your property.

- 2) Criminal Mischief over \$1,000 dollars. A third degree felony.

In order to prove this crime the prosecutor would need to prove these elements:

- a. You damaged the property of another person (a fence).
- b. The damage was done intentionally and it caused more than \$1,000 of damage.

Count 2 is a third degree felony. The maximum sentence on a third degree felony is 5 years in prison.

Your age

As you know, you have been charged as an adult. Unless the prosecutor agrees to change your charges, we cannot change this fact. We have asked if they would consider changing your charges and they are unwilling to do that. This means that your case will be handled as an adult case for both trial and sentencing.

There is a sentencing scheme that would be very helpful to you. It is called youthful offender. Youthful offender applies to people who are 21 years of age or younger at the time the crime is committed. The Florida Statue specifically excludes any life felony from a youthful offender sentence. In short, this is not available to you because you are charged with a life felony in Count 1.

Your age does allow the Judge to sentence you to juvenile sanctions. Juvenile sanctions means that you would serve out your sentence in a juvenile commitment program until you reach the age of 21 years. Only the Judge can choose that option. As an example, if you were convicted at trial, or if you pled, the Judge would only have two options:

1. A life sentence or
2. Juvenile sanctions

There is no in-between in your Volusia case. It would have to be one or the other. This is a huge risk and you should be very cautious with that prospect.

Because you are under 18 years of age, if you were given a life sentence, you would be entitled to a review after 25 years. This means that a Judge would review your life sentence (after 25 years had passed) and decide if you should remain in prison, or if your sentence should be changed. There is no guarantee in how that future court would rule.

The Plea offer

The plea offer has been discussed with you, but I would like to repeat it here. The current offer, should you accept it, is for you to serve 20 years in the prison followed by 10 years of probation. There are other details of the probation, but those are the main components. Allison and I have been working hard at trying to get a better offer for you to consider. As of today, the Office of the State Attorney has declined to change the offer. If that changes we would let you know right away.

It is not a good idea for you to continue sending letters to Mr. Larizza, the State Attorney. As we have mentioned before, you should only be discussing your case with us.

A Trial

Some of the people that you have spoken to have suggested that you will be found not guilty at trial. This is not only bad advice, it is reckless. No one knows what a jury will do. Not the Judge, not the prosecutor, and not us. No one knows what a jury will do. If you are convicted you will face the punishments outlined above, including the possibility of spending the rest of your life in prison.

There is another aspect of the trial that you have mentioned before and it is the mistaken belief that the jurors will feel bad for you. It is not a defense to a crime to ask a jury to feel bad for you. As I mentioned in the past, the judge will instruct the jury to not decide the case based on feelings of sympathy or because they feel bad for anyone. You should remove that thought from your consideration because I do not believe that a jury will find you not guilty because they feel badly for you.

Defense attorneys often think of cases in terms of exposure. Exposure means the maximum sentence that a client can receive. When you think of exposure it is important to think of the possibility that a judge could run the sentences consecutively which means one after the other, rather than concurrently which means they run at the same time. Your total exposure if you were convicted of all the charges is two life sentences plus 35 years.

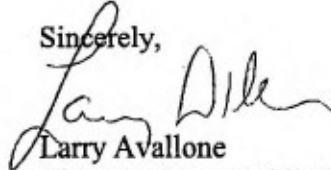
Regardless of what other people may tell you, it is a real possibility that you could receive

a life sentence, or more, in these cases. I know that people have told you that a juvenile cannot receive a life sentence and that oversimplifies the truth. It is possible for a juvenile to receive a life sentence; all that is guaranteed is a sentence review after 25 years.

Conclusion

Allison and I have your best interests in mind. We are still gathering information which we expect will be helpful to your case. We know that you have been in jail for almost a year now, and we understand that you are impatient. We need more time to prepare your case. There are decisions in life which should not be rushed. This is one of them.

Sincerely,



Larry Avallone
Chief Assistant Public Defender