

**APPLICATION FOR NOMINATION
TO VOLUSIA COUNTY COURT**



ALLISON A. HUGHES

APPLICATION FOR NOMINATION TO THE VOLUSIA COUNTY COURT

Instructions: Respond fully to the questions asked below. Please make all efforts to include your full answer to each question in this document. You may attach additional pages, as necessary, however it is discouraged. In addition to the application, you must provide a recent color photograph to help identify yourself.

Full Name: Allison Almira Hughes

Social Security No.: [REDACTED]

Florida Bar No.: 51313 Date Admitted to Practice in Florida: 4/18/2008

1. Please state your current employer and title, including any professional position and any public or judicial office you hold, your business address and telephone number.

*Division Chief; DeLand Office
Law Offices of the Public Defender, 7th Circuit
101 N. Alabama Ave., B304
DeLand, Florida 32724
(386)822-5770*

2. Please state your current residential address, including city, county, and zip code. Indicate how long you have resided at this location and how long you have lived in Florida. Additionally, please provide a telephone number where you can be reached (preferably a cell phone number), and your preferred email address.

[REDACTED]
[REDACTED]
*Volusia County
I have lived at this location since April 2018 and I have resided in Florida since August 2004
Cell: (904)477-9413
hughesatta@gmail.com*

3. State your birthdate and place of birth.

*August 7th, 1982
Marymount Hospital, Garfield Hts, Ohio*

4. Are you a registered voter in Florida (Y/N)? *Yes*
5. Please list all courts (including state bar admissions) and administrative bodies having special admissions requirements to which you have ever been admitted to practice, giving the dates of admission, and if applicable, state whether you have ever been suspended or resigned. Please explain the reason for any lapse in membership.

Florida Bar- admitted April 18, 2008

Never suspended/resigned

6. Have you ever been known by any aliases? If so, please indicate and when you were known by such alias. *Allison Almira Novak (maiden name)*

EDUCATION:

7. List in reverse chronological order each secondary school, college, university, law school or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, the date the degree was received, class standing, and graduating GPA (if your class standing or graduating GPA is unknown, please request the same from such school).

Florida Coastal School of Law- August 2004- May 2007 Juris Doctorate

Class rank not complied, GPA:2.5

Marietta College- August 2000- May 2004 Bachelor of Arts

Class rank not compiled, GPA: 3.4

Cuyahoga Community College (dual enrollment while in high school)

Class rank not compiled, GPA 4.0

8. List and describe any organizations, clubs, fraternities or sororities, and extracurricular activities you engaged in during your higher education. For each, list any positions or titles you held and the dates of participation.

Alpha Xi Delta Sorority

Chaplain; Spring 2001

New Member Advisor; Fall 2003-Spring 2004

Women's Rugby (Club Team)- 2001-2004

EMPLOYMENT:

9. List in reverse chronological order all full-time jobs or employment (including internships and clerkships) you have held since the age of 21. Include the name and address of the employer, job title(s) and dates of employment. For non-legal employment, please briefly describe the position and provide a business address and telephone number.

The Office of the Public Defender, 7th Judicial Circuit

251 N. Ridgewood Ave.

Daytona Beach, FL 32114

(386)239-7730

Attorney; March 2009-August 2018

Division Chief/Attorney; August 2018- present

Law office of Anne Marie Gennusa

*309 Kingsley Lake Dr. Ste 903
Saint Augustine, FL 32090
(904)827-0775
Legal Assistant; August 2007-April 2008
Associate Attorney; April 2008- March 2009*

*Bray and Lunsford, P.A.
421 W. Church St.
Jacksonville, FL 32201
(904)356-2729
Legal Assistant; June 2006-June 2007*

*Ann Taylor Loft
10300 Southside Blvd.
Jacksonville, FL 32256
(904)519-8766
Salesperson; Summer 2005-Spring 2006*

*Jacksonville Area Legal Aid
126 W. Adams St.
Jacksonville, FL 32202
(904)356-8371
Legal Intern; Summer 2005- Fall 2005*

*Professional Title Agency
747 S. Ridgewood Ave., Ste 204
Daytona Beach, FL 32114
(386)761-4477
Administrative Assistant; Summer 2003, Winter, 2004 (Law School holiday breaks)*

*WNDB, 1150AM Radio, Daytona Beach, Florida June 2003- August 2003
1410 LPGA Blvd Suite 148,
Daytona Beach, FL 32117
(386)255-9300*

*Cleveland Clinic Hospital System
Hillcrest Hospital
6780 Mayfield Dr.,
Mayfield Heights, Ohio 44124
(440)312)4500
Data Entry Specialist, database management and secretarial support. 2001-2004*

10. Describe the general nature of your current practice including any certifications which you possess; additionally, if your practice is substantially different from your prior practice or if you are not now practicing law, give details of prior practice. Describe your typical clients or former clients and the problems for which they sought your services.

I have been employed with the Office of the Public Defender, 7th, Judicial Circuit since March 9th, 2009. Upon being hired I started in the juvenile delinquency division in Daytona Beach and represented indigent juvenile clients in their pending delinquency cases in front of Judge J. Watson. Additionally, I rotated weekly working at the Volusia County Branch Jail for first appearance hearings. During that time, I represented adult clients who had been arrested within the previous twenty-four hours with their initial hearing, adult clients who appeared for “jail arraignments” and extradition hearings.

In February of 2010 I was promoted to an adult misdemeanor docket and represented indigent adults charged with first- and second-degree misdemeanor criminal offenses in front of Judge David Foxman. I handled cases through resolution, including pre-trial motions to suppress, motions to dismiss, plea hearings, sentencing hearings, restitution hearings and both jury and bench trials. I was promoted to an adult felony docket in December of 2011 and represented indigent adults charged with third degree, second degree, first degree, first degree punishable by life in prison and life felony charges in front of Judge Michael Hutcheson. I handled depositions, pre-trial motion hearings, sentencing hearings and jury trials.

Upon my request I was able to take over the juvenile delinquency docket in DeLand in July of 2013 in front of Judge James Clayton. At that time, I also was responsible for the adult felony drug court docket and mentoring the misdemeanor docket attorneys. I was then promoted to Division Chief of our entire DeLand Office in August of 2018. I have continuously maintained my juvenile delinquency docket since July of 2013 appearing in front of Judge Mary Jolley and currently Judge Linda Gaustad.

Prior to working for the Public Defender’s Office, I was an associate attorney for Anne Marie Gennusa in her private practice. I mainly handled family law cases along with some probate and small claims cases.

11. What percentage of your appearance in court in the last five years or in the last five years of practice (include the dates) was:

	Court		Area of Practice	
Federal Appellate	_____	%	Civil	_____ %
Federal Trial	_____	%	Criminal	<u>100</u> %
Federal Other	_____	%	Family	_____ %

State Appellate	_____ %	Probate	_____ %
State Trial	<u>100</u> %	Other	_____ %
State Administrative	_____ %		
State Other	_____ %		
 TOTAL	 <u>100</u> %	 TOTAL	 <u>100</u> %

If your appearance in court the last five years is substantially different from your prior practice, please provide a brief explanation:

12. In your lifetime, how many (number) of the cases that you tried to verdict, judgment, or final decision were:

Jury?	<u>14</u>	Non-jury?	<u>14</u>
Arbitration?	<u>0</u>	Administrative Bodies?	<u>0</u>
Appellate?	<u>0</u>		

13. Please list every case that you have argued (or substantially participated) in front of the United States Supreme Court, a United States Circuit Court, the Florida Supreme Court, or a Florida District Court of Appeal, providing the case name, jurisdiction, case number, date of argument, and the name(s), e-mail address(es), and telephone number(s) for opposing appellate counsel. If there is a published opinion, please also include that citation. *N/A*

14. Within the last ten years, have you ever been formally reprimanded, sanctioned, demoted, disciplined, placed on probation, suspended, or terminated by an employer or tribunal before which you have appeared? If so, please state the circumstances under which such action was taken, the date(s) such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action. *No*

15. In the last ten years, have you failed to meet any deadline imposed by court order or received notice that you have not complied with substantive requirements of any business or contractual arrangement? If so, please explain full. *No*

16. For your last six cases, which were tried to verdict or handled on appeal, either before a jury, judge, appellate panel, arbitration panel or any other administrative hearing officer, list the names, e-mail addresses, and telephone numbers of the trial/appellate counsel on all sides and

court case numbers (include appellate cases). *This question is optional for sitting judges who have served five years or more.*

05/16/2014 – N.L. 14-10299CJDL BENCH TRIAL (Judge Clayton)

PD (2nd chair) Courtney Davison

(386)822-5770

Davison.Courtney@pd7.org

ASA, Jill Fitzgerald

(386)801-6671

Jdesq2005@gmail.com

06/13/14- C.V. 14-10057CJDL BENCH TRIAL (Zambrano Trial/ Clayton Sentencing)

ASA, Jill Fitzgerald

(386)801-6671

Jdesq2005@gmail.com

5/18/15 – K.B.V. 14-11111CJDL & 14-11112CJDL BENCH TRIAL (Judge Clayton)

ASA, Jill Fitzgerald

(386)801-6671

Jdesq2005@gmail.com

8/12/16 – T.L. 16-10020CJDL BENCH TRIAL (Judge Jolley)

ASA, Leanne (Ryan) Whitaker

(407)836-2400

rwhitaker@sao9.org

9/26/2016- A.M. 16-10318CJDL BENCH TRIAL (Judge Jolley)

ASA, Leanne (Ryan) Whitaker

(407)836-2400

rwhitaker@sao9.org

PD (2nd chair) Steve Gosney

(386)254-3758

Gosney.Steve@pd7.org

11/5/2019 D.B. 19-10467CJDL BENCH TRIAL (Judge Jolley)

ASA, Amie Assent

(386)822-6400

assenta@sao7.org

10/2/2020 E.R. 19-10858CJDL BENCH TRIAL (Judge Jolley)

ASA, Amie Assent

(386)822-6400

assenta@sao7.org

17. For your last six cases, which were either settled in mediation or settled without mediation or trial, list the names and telephone numbers of trial counsel on all sides and court case numbers (include appellate cases). *This question is optional for sitting judges who have served five years or more.*

A.K. 2021-30741CJCI

A.K. 2022-30080CJCI

A.K. 2022-30129CJCI

A.K. 2023-30106CJCI

A.K. 2023-30681CJCI

Z.K. 2023-30467CJCI

Assistant State Attorney, Kristin DePaula (386)334-5932

18. During the last five years, on average, how many times per month have you appeared in Court or at administrative hearings? If during any period you have appeared in court with greater frequency than during the last five years, indicate the period during which you appeared with greater frequency and succinctly explain. *8-10 dockets per month*

19. If Questions 16, 17, and 18 do not apply to your practice, please list your last six major transactions or other legal matters that were resolved, listing the names, e-mail addresses, and telephone numbers of the other party counsel. *N/A*

20. During the last five years, if your practice was greater than 50% personal injury, workers' compensation or professional malpractice, what percentage of your work was in representation of plaintiffs or defendants? *N/A*

21. List and describe the five most significant cases which you personally litigated giving the case style, number, court and judge, the date of the case, the names, e-mail addresses, and telephone numbers of the other attorneys involved, and citation to reported decisions, if any. Identify your client and describe the nature of your participation in the case and the reason you believe it to be significant.

12/15/10 – Avance, Ron 2010-49368MMAES JURY TRIAL (Judge Foxman)

ASA- David Cromartie (now Judge)

(386)248-8166

dcromartie@circuit7.org

This trial was the first jury trial in my career. Being able to learn from both an experienced Assistant State Attorney and Judge helped propel me into trying cases with confidence and professionalism. Although the client was only charged with misdemeanor offenses in this case, he was on felony probation in another County. So, the outcome of this trial had a significant impact on his future. He was found guilty of the offenses, sentenced to time served and transferred to Flagler County.

4/19/2012 – McCormick, Bernard 11-34979CFAES JURY TRIAL (Judge Hutcheson)

*ASA- Christian “Chris” Miller (now Judge)
(386)626-6592
cmiller@circuit7.org*

*ASA -Travis Mydock
(904)864-3002
tmydock@mydocklaw.com*

This case was the first felony trial in my career as the primary attorney. The client was charged with burglary of an unoccupied conveyance, a third-degree felony, and criminal mischief, a second degree misdemeanor. Ultimately, he was found not guilty of both charges after spending two hundred and thirty-four days in jail. Mr. McCormick was a transient who was accused of taking parts off of a air conditioning unit attached to the back of a closed gas station. This case taught me how important it is to look through even the most minor details of the case. I was able to discover a random name on a CAD report that led to some additional depositions. These depositions revealed information that the “eyewitness” had not previously disclosed. This information was instrumental in the client’s defense and ultimate acquittal.

6/19-20/2012 – Wynn, Michael 11-32380CFAES JURY TRIAL (Judge Hutcheson)

*ASA- Michael Willard
(386)239-7710
willardm@sao7.org*

*ASA -Travis Mydock
(904)864-3002
tmydock@mydocklaw.com*

*1st Chair PD- Matthew Phillips
(386)453-7868
Matthewphillips10502@gmail.com*

11/12-15/2012– Wynn, Michael 11-32380CFAES RE-TRIAL (Judge Hutcheson)

*ASA- Michael Willard
(386)239-7710
willardm@sao7.org*

*ASA-Emmanuela Charles
(202)727-5866
Emmanuela.charles@dc.gov*

*2nd Chair PD- Craig Dyer
(386)679-5963*

craigdyer@att.net

This client was charged with attempted murder, a first-degree felony punishable by life in prison and aggravated battery, a second-degree felony. The first trial was held the week of June 19th, 2012, and after many hours of deliberation the result was a hung jury on both counts. As I was new to the felony division, Matt Phillips, our office's experienced capital attorney mentored me on the case. He was the primary attorney on our first trial, and I did half of the cross examinations and the closing statement. The case was then retried the week of November 12th, 2012. Mr. Phillips had another case going to trial that he needed to focus on, so I was moved to primary attorney and our Chief Assistant, Craig Dyer, joined the case as second chair. While this was an incredibly nerve-wracking experience, Mr. Dyer's trial style was drastically different than Mr. Phillip's although equally as impressive and influential. Over the course of two trials, I was able to learn from two incredible attorneys who taught me a lot about complex felony cases. The client was found guilty of both counts in the second trial and sentenced to thirty years in prison.

3/21/2013 – McCormick, Bernard 12-034158CFAES JURY TRIAL (Judge Hutcheson)

*ASA- Melissa Clark
(386)313-4300
clarkm@sao7.org*

*2nd Chair PD- David Ellzey
(386)257-0606
david@berepresented.com*

The client in this case was the same as my trial in April of 2012. He was arrested three months after he was acquitted in 2011-34979CFAES. In this case he was charged with burglary of an unoccupied dwelling, a second-degree felony and felony petite theft, a third degree felony. However, in this case the charges qualified him as a Prison Releasee Reoffender and Habitual Felony Offender. This trial was an important lesson in felony enhancement statutes. The client was found guilty on both counts, sentenced to fifteen years under the Prison Releasee Reoffender Statute. Judge Hutcheson declined to add the additional time under the Habitual Offender Statue, finding he would not be a danger to the public by the time he was released on the sentence due to his age.

4/22, 23, 24, 25/ 2013 – Al Rue Hopkins 11-35980CFAES JURY TRIAL (Judge Zambrano)

*ASA- Christian "Chris" Miller (now Judge)
(386)626-6592
cmiller@circuit7.org*

ASA- Laura Coln, deceased

*1st Chair PD- Matthew Phillips
(386)453-7868
Matthewphillips10502@gmail.com*

The client in this case was charged with two counts of driving under the influence causing death, a second-degree felony. He was accused of driving while under the influence of alcohol, leaving his residence to go to the store. He pulled into a left-hand turn lane with on-coming traffic. He was alleged to have pulled in front of a motorcycle carrying a husband and wife, the impact killing both individuals. Matt Phillips again, mentored me on this case as it started when I was first moved onto the felony docket. In trial I did the opening statement and cross examined three civilian witnesses. The client was found guilty of both counts and sentenced to 15 years in prison on both counts to run consecutively. The sentencing hearing was highly emotional as the court heard testimony from both the teenaged daughter of the victims and the elderly mother of my client. This case had a lasting emotional effect on me and serves as a reminder that the impact of a case goes far beyond a verdict.

22. Attach at least two, but no more than three, examples of legal writing which you personally wrote. If you have not personally written any legal documents recently, you may attach a writing sample for which you had substantial responsibility. Please describe your degree of involvement in preparing the writing you attached.

Attached are two motions to dismiss that I drafted. The case, State v. Spencer, was a felony case wherein the defendant was charged with obtaining property by worthless check over \$150, a third-degree felony. The client was able to plea to a misdemeanor charge as a result of the motion. In State v. Brown, the client was charged with the misdemeanor charges of loitering a prowling and resisting an officer without violence. The charges were dismissed as a result of the motion.

PRIOR JUDICIAL EXPERIENCE OR PUBLIC OFFICE

23. Have you ever held judicial office or been a candidate for judicial office? If so, state the court(s) involved, the dates of service or dates of candidacy, and any election results. *No*
24. If you have previously submitted a questionnaire or application to this or any other judicial nominating commission, please give the name(s) of the commission, the approximate date(s) of each submission, and indicate if your name was certified to the Governor's Office for consideration. *No*
25. List any prior quasi-judicial service, including the agency or entity, dates of service, position(s) held, and a brief description of the issues you heard. *No*
26. If you have prior judicial or quasi-judicial experience, please list the following information:
- (i) the names, phone numbers and addresses of six attorneys who appeared before you on matters of substance;
 - (ii) the approximate number and nature of the cases you handled during your tenure;
 - (iii) the citations of any published opinions; and

(iv) descriptions of the five most significant cases you have tried or heard, identifying the citation or style, attorneys involved, dates of the case, and the reason you believe these cases to be significant.

27. Provide citations and a brief summary of all of your orders or opinions where your decision was reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, attach copies of the opinions. *N/A*
28. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, attach copies of the opinions. *N/A*
29. Has a complaint about you ever been made to the Judicial Qualifications Commission? If so, give the date, describe the complaint, whether or not there was a finding of probable cause, whether or not you have appeared before the Commission, and its resolution. *N/A*
30. Have you ever held an attorney in contempt? If so, for each instance state the name of the attorney, case style for the matter in question, approximate date and describe the circumstances. *N/A*
31. Have you ever held or been a candidate for any other public office? If so, state the office, location, dates of service or candidacy, and any election results. *No*

NON-LEGAL BUSINESS INVOLVEMENT

32. If you are now an officer, director, or otherwise engaged in the management of any business enterprise, state the name of such enterprise, the nature of the business, the nature of your duties, and whether you intend to resign such position immediately upon your appointment or election to judicial office. *No*
33. Since being admitted to the Bar, have you ever engaged in any occupation, business or profession other than the practice of law? If so, explain and provide dates. If you received any compensation of any kind outside the practice of law during this time, please list the amount of compensation received. *No*

POSSIBLE BIAS OR PREJUDICE

34. The Commission is interested in knowing if there are certain types of cases, groups of entities, or extended relationships or associations which would limit the cases for which you could sit as the presiding judge. Please list all types or classifications of cases or litigants for which you, as a general proposition, believe it would be difficult for you to sit as the presiding judge. Indicate the reason for each situation as to why you believe you might be in conflict. If you have prior judicial experience, describe the types of cases from which you have recused yourself.

My husband retired as a Lieutenant with DeLand Police Department on July 28th, 2023. I would be unable to preside over any lingering criminal cases in which he was involved.

PROFESSIONAL ACCOMPLISHMENTS AND OTHER ACTIVITIES

35. List the titles, publishers, and dates of any books, articles, reports, letters to the editor, editorial pieces, or other published materials you have written or edited, including materials published only on the Internet. Attach a copy of each listed or provide a URL at which a copy can be accessed. *N/A*
36. List any reports, memoranda or policy statements you prepared or contributed to the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. Provide the name of the entity, the date published, and a summary of the document. To the extent you have the document, please attach a copy or provide a URL at which a copy can be accessed. *N/A*
37. List any speeches or talks you have delivered, including commencement speeches, remarks, interviews, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place they were delivered, the sponsor of the presentation, and a summary of the presentation. If there are any readily available press reports, a transcript or recording, please attach a copy or provide a URL at which a copy can be accessed.

Interviewed regarding delinquency procedure by reporter, Katie Hyson with Report for America Corps member/WUFT News [A 13-year-old in Putnam County is facing felony charges for repeating a rumor - WUFT News](#)

7/17/2023 Spoke to Students at Mainland High School with Delinquency Judge, Kathleen McNeilly.

38. Have you ever taught a course at an institution of higher education or a bar association? If so, provide the course title, a description of the course subject matter, the institution at which you taught, and the dates of teaching. If you have a syllabus for each course, please provide. *No*
39. List any fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement. Include the date received and the presenting entity or organization.

Marietta College

Deans High Honors List; Fall 2000, Spring 2004

Deans List; Fall 2001, Spring 2002, Spring 2003, Fall 2003

Dean's Scholarship; Fall 2000-Spring 2004

Vernon "Dan" McGrew Scholarship

40. Do you have a Martindale-Hubbell rating? If so, what is it and when was it earned? *No*

41. List all bar associations, legal, and judicial-related committees of which you are or have been a member. For each, please provide dates of membership or participation. Also, for each indicate any office you have held and the dates of office.

Florida Public Defenders Association March 2009- present

FPDA Children's Defense Advisory Committee- July 2022- present

Volusia County Bar Association 2009- present

Inns Of Court, Dunn-Blount; September 2019-present

National Juvenile Defender Center March 2022-present

West Volusia County Florida Association for Women Lawyers October 2022- present

42. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in the previous question to which you belong, or to which you have belonged since graduating law school. For each, please provide dates of membership or participation and indicate any office you have held and the dates of office.

Order of the Eastern Star, DeLand Chapter #16; Masonic Organization

Member: January 2017- present

Associate Conductress; March 2021-March 2022

Conductress; March 2022- present

Assistant Worthy Matron - present

International Order of Rainbow Girls, DeLand Assembly #31; Masonic Organization

Advisory Board Member- March 2018-present

Statewide Grievance Committee Member 2020

Assistant Mother Advisor- February 2022- present

43. Do you now or have you ever belonged to a club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion (other than a church, synagogue, mosque or other religious institution), national origin, or sex (other than an educational institution, fraternity or sorority)? If so, state the name and nature of the club(s) or organization(s), relevant policies and practices and whether you intend to continue as a member if you are selected to serve on the bench. *No*

44. Please describe any significant pro bono legal work you have done in the past 10 years, giving dates of service.

I participate in several service endeavors, however, none of them involve legal work.

45. Please describe any hobbies or other vocational interests.

Other than the organizations that I am a member of, which take up a fair amount of my time, I prefer spending my weekends with my family. I am a dog-parent and have two thoroughly

spoiled pups. I am also an avid reader, sharing book recommendations with my mom and friends.

46. Please state whether you have served or currently serve in the military, including your dates of service, branch, highest rank, and type of discharge. *N/A*
47. Please provide links to all social media and blog accounts you currently maintain, including, but not limited to, Facebook, Twitter, LinkedIn, and Instagram.

Facebook: <http://www.facebook.com/allison.novak.7>

Instagram: https://www.instagram.com/aa_hughes

Tiktok: http://www.tiktok.com/@aa_hughes

FAMILY BACKGROUND

48. Please state your current marital status. If you are currently married, please list your spouse's name, current occupation, including employer, and the date of the marriage. If you have ever been divorced, please state for each former spouse their name, current address, current telephone number, the date and place of the divorce and court and case number information.

Married; October 25, 2014

Retired Lieutenant, DeLand Police Department

49. If you have children, please list their names and ages. If your children are over 18 years of age, please list their current occupation, residential address, and a current telephone number. *N/A*

CRIMINAL AND MISCELLANEOUS ACTIONS

50. Have you ever been convicted of a felony or misdemeanor, including adjudications of guilt withheld? If so, please list and provide the charges, case style, date of conviction, and terms of any sentence imposed, including whether you have completed those terms. *No*
51. Have you ever pled nolo contendere or guilty to a crime which is a felony or misdemeanor, including adjudications of guilt withheld? If so, please list and provide the charges, case style, date of conviction, and terms of any sentence imposed, including whether you have completed those terms. *No*
52. Have you ever been arrested, regardless of whether charges were filed? If so, please list and provide sufficient details surrounding the arrest, the approximate date and jurisdiction. *No*
53. Have you ever been a party to a lawsuit, either as the plaintiff, defendant, petitioner, or respondent? If so, please supply the case style, jurisdiction/county in which the lawsuit was filed, case number, your status in the case, and describe the nature and disposition of the matter. *No*

54. To your knowledge, has there ever been a complaint made or filed alleging malpractice as a result of action or inaction on your part? *No*
55. To the extent you are aware, have you or your professional liability carrier ever settled a claim against you for professional malpractice? If so, give particulars, including the name of the client(s), approximate dates, nature of the claims, the disposition and any amounts involved. *No*
56. Has there ever been a finding of probable cause or other citation issued against you or are you presently under investigation for a breach of ethics or unprofessional conduct by any court, administrative agency, bar association, or other professional group. If so, provide the particulars of each finding or investigation. *No*
57. To your knowledge, within the last ten years, have any of your current or former co-workers, subordinates, supervisors, customers, clients, or the like, ever filed a formal complaint or accusation of misconduct including, but not limited to, any allegations involving sexual harassment, creating a hostile work environment or conditions, or discriminatory behavior against you with any regulatory or investigatory agency or with your employer? If so, please state the date of complaint or accusation, specifics surrounding the complaint or accusation, and the resolution or disposition. *No*
58. Are you currently the subject of an investigation which could result in civil, administrative, or criminal action against you? If yes, please state the nature of the investigation, the agency conducting the investigation, and the expected completion date of the investigation. *No*
59. Have you ever filed a personal petition in bankruptcy or has a petition in bankruptcy been filed against you, this includes any corporation or business entity that you were involved with? If so, please provide the case style, case number, approximate date of disposition, and any relevant details surrounding the bankruptcy. *No*
60. In the past ten years, have you been subject to or threatened with eviction proceedings? If yes, please explain. *No*
61. Please explain whether you have complied with all legally required tax return filings. To the extent you have ever had to pay a tax penalty or a tax lien was filed against you, please explain giving the date, the amounts, disposition, and current status.

I have complied with all legally required tax return filings without issue.

HEALTH

62. Are you currently addicted to or dependent upon the use of narcotics, drugs, or alcohol? *No*
63. During the last ten years have you been hospitalized or have you consulted a professional or have you received treatment or a diagnosis from a professional for any of the following: Kleptomania,

Pathological or Compulsive Gambling, Pedophilia, Exhibitionism or Voyeurism? If your answer is yes, please direct each such professional, hospital and other facility to furnish the Chairperson of the Commission any information the Commission may request with respect to any such hospitalization, consultation, treatment or diagnosis. ["Professional" includes a Physician, Psychiatrist, Psychologist, Psychotherapist or Mental Health Counselor.] Please describe such treatment or diagnosis. *No*

64. In the past ten years have any of the following occurred to you which would interfere with your ability to work in a competent and professional manner: experiencing periods of no sleep for two or three nights, experiencing periods of hyperactivity, spending money profusely with extremely poor judgment, suffering from extreme loss of appetite, issuing checks without sufficient funds, defaulting on a loan, experiencing frequent mood swings, uncontrollable tiredness, falling asleep without warning in the middle of an activity. If yes, please explain. *No*
65. Do you currently have a physical or mental impairment which in any way limits your ability or fitness to properly exercise your duties as a member of the Judiciary in a competent and professional manner? If yes please explain the limitation or impairment and any treatment, program or counseling sought or prescribed. *No*
66. During the last ten years, have you ever been declared legally incompetent or have you or your property been placed under any guardianship, conservatorship or committee? If yes, provide full details as to court, date, and circumstances. *No*
67. During the last ten years, have you unlawfully used controlled substances, narcotic drugs, or dangerous drugs as defined by Federal or State laws? If your answer is "Yes," explain in detail. (Unlawful use includes the use of one or more drugs and/or the unlawful possession or distribution of drugs. It does not include the use of drugs taken under supervision of a licensed health care professional or other uses authorized by Federal or State law provisions.) *No*
68. In the past ten years, have you ever been reprimanded, demoted, disciplined, placed on probation, suspended, cautioned, or terminated by an employer as result of your alleged consumption of alcohol, prescription drugs, or illegal drugs? If so, please state the circumstances under which such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action *No*
69. Have you ever refused to submit to a test to determine whether you had consumed and/or were under the influence of alcohol or drugs? If so, please state the date you were requested to submit to such a test, the type of test required, the name of the entity requesting that you submit to the test, the outcome of your refusal, and the reason why you refused to submit to such a test. *No*
70. In the past ten years, have you suffered memory loss or impaired judgment for any reason? If so, please explain in full. *No*

SUPPLEMENTAL INFORMATION

71. Describe any additional education or experiences you have which could assist you in holding judicial office.

Over the last (almost) fourteen years with the Office of the Public Defender I have been sent to multiple training programs including Defender College, Criminal Defense Investigative Course, Blood Breath and Tears, the Gerald T. Bennet Prosecutor/Public Defender Training Program, Eyewitness Identification Seminar, Professionalism Symposium, and multiple Trial with Style, FPDA Conferences. All these programs were for criminal defense attorneys or prosecutors, however, many of the presenters were current or retired Judges from throughout the State. Hearing these esteemed members of the judiciary explain not only legal issues but also professional and ethical issues has provided me insight on the challenges that judges face on a day-to-day basis.

72. Explain the particular contribution you believe your selection would bring to this position and provide any additional information you feel would be helpful to the Commission and Governor in evaluating your application.

I believe that if selected for this position I would bring to the bench the disposition necessary to be a truly effective, hard working and humble member of the judiciary. As an individual that was raised in a service-minded home and has dedicated most of my career to the service of others, becoming a judge is a natural progression to my career.

Understanding that I have worked as a public defender since March of 2009, the foundation of a varied legal education began in law school. I worked as a legal assistant for the law firm of Bray and Lunsford, a civil firm, both handling calls and setting hearings. Working for Anne Marie Gennusa after I graduated from law school I handled calls, client meetings, filings and setting hearings in cases ranging from family law, probate and civil to criminal and dependency cases.

Throughout my time working in Volusia County, I have had the privilege of appearing in front of amazing and inspiring judges. Early in my career I was placed on Judge David Foxman's docket and remained working on that docket for close to two years. I was able to watch and learn how important it was to treat everyone with respect and the amazing result was that all the defendants appearing before him treated him with the same respect. Even over ten years later he continues to encourage me in my career for which I am grateful. I have also been assigned to dockets in front of Judge Mary Jolley, Judge James Clayton, Judge Michael Hutcheson, Judge Joseph Will and Judge Raul Zambrano, all of whom have motivated me to attempt to continue my career as a judge. I believe that with my experience and character I would be a positive addition to the judiciary.

REFERENCES

73. List the names, addresses, e-mail addresses and telephone numbers of ten persons who are in a position to comment on your qualifications for a judicial position and of whom inquiry may be made by the Commission and the Governor.

Honorable James Clayton; 7th Circuit Judge
101 N. Alabama Ave, DeLand, Florida 32724
yclayton@circuit7.org; (386)740-5270

Honorable David Foxman; Volusia County Judge
125 E. Orange Ave. Ste 203, Daytona Beach, FL 32114
dfoxman@circuit7.org; (386)257-6033

Honorable Mary G. Jolley; 7th Circuit Judge
125 E. Orange Ave., Daytona Beach, FL 32114
mjolley@circuit7.org; (386)257-60912

Honorable Rachel D. Myers, Volusia County Judge
101 N. Alabama Ave., DeLand, FL 32724
rmyers@circuit7.org; (386)736-5947

Honorable Matthew Metz; Public Defender, 7th Circuit
251 N. Ridgewood Ave., Daytona Beach, Florida 32114
Metz.matthew@pd7.org, (386)239-7730

Lawrence Avallone; Chief Assistant Public Defender, 7th Circuit
251 N. Ridgewood Ave., Daytona Beach, Florida 32114
Avallone.larry@pd7.org, (386)239-7730

Benjamin "Pete" Moon, DeLand Police Department
219 W. Howry Ave, DeLand, FL 32720
moonb@deland.org, (386)804-4579

Courtney Davison, Assistant Public Defender
101 N. Alabama Ave., DeLand, FL 32724
Davison.courtney@pd7.org; (386)299-2458

Hilary Wilson, Attorney, All State Insurance Company Staff Counsel
4443 Lyons Rd Ste 206, Coconut Creek, FL 33073
Hilary.wilson@allstate.com; (904)553-0024

Steven Boring, Past Grand Master of the Grand Masonic Lodge of Florida
2557 N. Spring Garden Ave., DeLand, FL 32720
Gm15steve@gmail.com; (386)717-2705

CERTIFICATE

I have read the foregoing questions carefully and have answered them truthfully, fully and completely. I hereby waive notice by and authorize The Florida Bar or any of its committees, educational and other institutions, the Judicial Qualifications Commission, the Florida Board of Bar Examiners or any judicial or professional disciplinary or supervisory body or commission, any references furnished by me, employers, business and professional associates, all governmental agencies and instrumentalities and all consumer and credit reporting agencies to release to the respective Judicial Nominating Commission and Office of the Governor any information, files, records or credit reports requested by the commission in connection with any consideration of me as possible nominee for appointment to judicial office. Information relating to any Florida Bar disciplinary proceedings is to be made available in accordance with Rule 3-7.1(l), Rules Regulating The Florida Bar. I recognize and agree that, pursuant to the Florida Constitution and the Uniform Rules of this commission, the contents of this questionnaire and other information received from or concerning me, and all interviews and proceedings of the commission, except for deliberations by the commission, shall be open to the public.

Further, I stipulate I have read, and understand the requirements of the Florida Code of Judicial Conduct.

Dated this 1 day of September, 2023.

Allison A. Hughes
Printed Name

Allison Hughes
Signature

(Pursuant to Section 119.071(4)(d)(1), F.S.), . . . The home addresses and telephone numbers of justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the home addresses, telephone numbers, and places of employment of the spouses and children of justices and judges; and the names and locations of schools and day care facilities attended by the children of justices and judges are exempt from the provisions of subsection (1), dealing with public records.

FINANCIAL HISTORY

1. State the amount of gross income you have earned, or losses you have incurred (before deducting expenses and taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field.

Current Year-To-Date: 71,831.00

Last Three Years: 96,266.70 92,913.40 86,145.04

2. State the amount of net income you have earned, or losses you have incurred (after deducting expenses but not taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field.

Current Year-To-Date: 56,953.21

Last Three Years: 92,901.96 89,654.64 83,113.16

3. State the gross amount of income or losses incurred (before deducting expenses or taxes) you have earned in the preceding three years on a year by year basis from all sources other than the practice of law, and generally describe the source of such income or losses.

Current Year-To-Date: _____

Last Three Years: _____

4. State the amount you have earned in the preceding three years on a year by year basis from all sources other than the practice of law, and generally describe the source of such income or losses.

Current Year-To-Date: _____

Last Three Years: _____

5. State the amount of net income you have earned or losses incurred (after deducting expenses) from all sources other than the practice of law for the preceding three-year period on a year by year basis, and generally describe the sources of such income or losses.

Current Year-To-Date: _____

Last Three Years: _____

**FORM 6
FULL AND PUBLIC
DISCLOSURE OF
FINANCIAL INTEREST**

PART A – NET WORTH

Please enter the value of your net worth as of December 31 or a more current date. [Note: Net worth is not calculated by subtracting your *reported* liabilities from your *reported* assets, so please see the instructions on page 3.]

My net worth as of September, 2023 was \$367,126.81

PART B - ASSETS

HOUSEHOLD GOODS AND PERSONAL EFFECTS:

Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds \$1,000. This category includes any of the following, if not held for investment purposes; jewelry; collections of stamps, guns, and numismatic items; art objects; household equipment and furnishings; clothing; other household items; and vehicles for personal use.

The aggregate value of my household goods and personal effects (described above) is \$ 60,000

ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:

DESCRIPTION OF ASSET (specific description is required – see instructions p. 3)

VALUE OF ASSET

DESCRIPTION OF ASSET (specific description is required – see instructions p. 3)	VALUE OF ASSET
Real Property- [REDACTED] (owned jointly with spouse)	\$300,000.00
Truist Checking (individual account)	\$7,576.13
Truist Savings (individual account)	\$5,132.11

PART C - LIABILITIES

LIABILITIES IN EXCESS OF \$1,000 (See instructions on page 4):

NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY
Space Coast Credit Union, auto loan, 1587 S. Woodland Blvd, DeLand, FL 32720	\$2,881.43

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY

PART D - INCOME

You may ***EITHER*** (1) file a complete copy of your latest federal income tax return, *including all W2's, schedules, and attachments*, ***OR*** (2) file a sworn statement identifying each separate source and amount of income which exceeds \$1,000 including secondary sources of income, by completing the remainder of Part D, below.

I elect to file a copy of my latest federal income tax return and all W2's, schedules, and attachments.
 (if you check this box and attach a copy of your latest tax return, you need not complete the remainder of Part D.)

PRIMARY SOURCE OF INCOME (See instructions on page 5):

NAME OF SOURCE OF INCOME EXCEEDING \$1,000	ADDRESS OF SOURCE OF INCOME	AMOUNT
State of Florida, Chief Financial Officer	200 E. Gaines Street, Tallahassee, FL 32399	\$108,626.04

SECONDARY SOURCES OF INCOME [Major customers, clients, etc., of businesses owned by reporting person—see instructions on page 6]

NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSINESS' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE

PART E – INTERESTS IN SPECIFIC BUSINESS [Instructions on page 7]

	BUSINESS ENTITY #1	BUSINESS ENTITY #2	BUSINESS ENTITY #3
NAME OF BUSINESS ENTITY			
ADDRESS OF BUSINESS ENTITY			
PRINCIPAL BUSINESS ACTIVITY			
POSITION HELD WITH ENTITY			
I OWN MORE THAN A 5% INTEREST IN THE BUSINESS			
NATURE OF MY OWNERSHIP INTEREST			

IF ANY OF PARTS A THROUGH E ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE

OATH

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed on this form and any attachments hereto is true, accurate, and complete.

STATE OF FLORIDA

COUNTY OF Volusia

Sworn to (or affirmed) and subscribed before me this 1st day of Sept, 2023 by _____

Erin Johnston

(Signature of Notary Public—State of Florida)

Erin Johnston

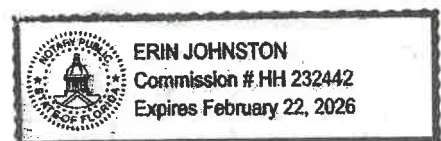
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known X OR Produced Identification _____

Type of Identification Produced _____

Allison Hughes

SIGNATURE



JUDICIAL APPLICATION DATA RECORD

The judicial application shall include a separate page asking applicants to identify their race, ethnicity and gender. Completion of this page shall be optional, and the page shall include an explanation that the information is requested for data collection purposes in order to assess and promote diversity in the judiciary. The chair of the Commission shall forward all such completed pages, along with the names of the nominees to the JNC Coordinator in the Governor's Office (pursuant to JNC Uniform Rule of Procedure).

(Please Type or Print)

Date: September 1st, 2023
JNC Submitting To: 7th Judicial Circuit
Name (please print): Allison Almira Hughes
Current Occupation: Attorney
Telephone Number: (904) 477-9413 Attorney No.: 51313
Gender (check one): Male Female
Ethnic Origin (check one): White, non-Hispanic
 Hispanic
 Black
 American Indian/Alaskan Native
 Asian/Pacific Islander
County of Residence: Volusia

FLORIDA DEPARTMENT OF LAW ENFORCEMENT

DISCLOSURE PURSUANT TO THE
FAIR CREDIT REPORTING ACT (FCRA)

The Florida Department of Law Enforcement (FDLE) may obtain one or more consumer reports, including but not limited to credit reports, about you, for employment purposes as defined by the Fair Credit Reporting Act, including for determinations related to initial employment, reassignment, promotion, or other employment-related actions.

CONSUMER'S AUTHORIZATION FOR
FDLE TO OBTAIN CONSUMER REPORT(S)

I have read and understand the above Disclosure. I authorize the Florida Department of Law Enforcement (FDLE) to obtain one or more consumer reports on me, for employment purposes, as described in the above Disclosure.

Allison Hughes

Printed Name of Applicant

Allison Hughes

Signature of Applicant

Date: 9/1/23

WRITING SAMPLES

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
VOLUSIA COUNTY, FLORIDA *DKS 11-8*

JUDGE R. MICHAEL HUTCHESON *130*

STATE OF FLORIDA,

CASE NO.: 2012-32310-CFAES

v.

304240

KAREN MASHELLE SPENCER,
Defendant.

MOTION TO DISMISS

Pursuant to Fla.R.Crim.P. 3.190(c)(4), defendant, KAREN MASHELLE SPENCER, moves for an order dismissing the charges against her and, as grounds therefor, states that there are no material disputed facts and that the undisputed facts do not establish a prima facie case of guilt against defendant. The facts on which this motion is based are:


STATEMENT OF FACTS

1. On January 30th, 2012, the defendant contacted Bob Barry Bail Bonds to inquire as to obtaining a surety bond for the release of Joshua Balzarano in case number 2012-30436CFAES.
2. Joshua Balzarano's bond was set at first appearances as \$7500.00 so a verbal agreement was made for the payment of \$750.00 to Bob Barry Bail Bonds and that there was money in Joshua Balzarano's bank account to cover the required 10%.
3. The \$7500.00 bond was posted by Bob Barry Bail Bonds and Joshua Balzarano was released.
4. The defendant retrieved Joshua Balzarano from the Volusia County Branch Jail and later that day appeared with him at Bob Barry Bail Bonds Office.

2012 OCT 29 AM 11:17
CLERK OF THE CIRCUIT
VOLUSIA COUNTY, FL
C 45

FILED

MTDS

5. Upon meeting with Phyllis White, an employee at Bob Barry Bail Bonds, it was relayed that the anticipated funds in Joshua Balzarano's bank account had not yet cleared and would not be available until the next Wednesday.
6. As Joshua Balzarano was already released, an agreement was made, wherein the defendant provided Ms. White with a check for the amount of \$750.00 to hold as security and that Joshua Balzarano would pay the \$750.00 when his funds cleared.
7. The check issued was check number 1140 with Bank of America on account number 
8. The check was dated January 30th, 2012, issued to Bob Barry Bail Bonds, Inc. for the amount of \$750.00 and signed by Karen Hopson.
9. Additionally, the defendant specifically made note in the memo line of the same check "Hold For Bond" and "Do Not Deposit."
10. However, upon providing the check, Phyllis White, scratched out the "Do Not Deposit" notation.
11. The check was then accepted by Bob Barry Bail Bonds, Inc. on January 30, 2012 and not deposited until March 13, 2012.
12. The check was returned due to the account having been closed.
13. (There is a series of events that take place subsequent to the acceptance of the check and prior to cashing the check that are not pertinent to the arguments below.)

ARGUMENT

The charge of obtaining property with a worthless check \$150.00 or more is governed by Florida Statute 832.05(4) which provides that "it is unlawful for any person, firm, or corporation to obtain any services, goods, wares, or other things of value by means of a check, draft, or other

written order upon any bank, person, firm, or corporation, knowing at the time of the making, drawing, uttering, issuing, or delivering of such check or draft that the maker thereof has not sufficient funds on deposit in or credit with such bank or depository with which to pay the same upon presentation. However, no crime may be charged in respect to the giving of any such check or draft or other written order when the payee knows, has been expressly notified, or has reason to believe that the drawer did not have on deposit or to the drawer's credit with the drawee sufficient funds to ensure payment thereof. A payee does not have reason to believe a payor does not have sufficient funds to ensure payment of a check solely because the payor has previously issued a worthless check to him or her." Fla. Stat. § 832.05(4).

In order to sustain a felony charge of obtaining property or services by worthless check, it must be demonstrated that the check was the inducement for the furnishing of goods or services to the issuer. Strickland v. State, 559 So. 2d 1288, 1289 (Fla. Dist. Ct. App. 2d Dist. 1990) citing Helms v. State, 128 So.2d 756 (Fla. 1st DCA 1961).

A worthless check tendered for payment of a pre-existing debt will sustain only the lesser misdemeanor proscribed by section 832.05(2), Florida Statutes (2012). State v. Harris, 136 So.2d 633 (Fla. 1962); Laytner v. State, 239 So.2d 857 (Fla. 3d DCA 1970) as cited in Strickland v. State, 559 So. 2d 1288, 1289 (Fla. Dist. Ct. App. 2d Dist. 1990).

In the Strickland case, on November 23, 1987, the defendant delivered to Dee Dee Norton two checks drawn on the account of Stewart P. Strickland Productions, Inc. These checks, totalling approximately two thousand dollars, were intended to compensate Norton for services previously rendered, viz., "voice overtaping" on a tape that was being produced by Strickland's company. The taping took place November 22 and 23, 1987. The Court determined that "there is no indication that the offer of payment by check preceded the services rendered by

Norton; rather, Norton performed the services and Strickland then paid for same using the checks. The closeness in time between Norton's completion of her assigned task and Strickland's tendering of the checks is, under these circumstances, immaterial." Strickland v. State, 559 So. 2d 1288, 1289 (Fla. Dist. Ct. App. 2d Dist. 1990). The Appellate Court in Strickland determined the defendant could not be found guilty of the felony charge of obtaining property or services by worthless check and the defendant could only be charged with a misdemeanor because the worthless checks were not the inducement for the performance of the service in purported payment of which the checks were issued.

In the instant case, the service provided by Bob Barry Bail Bonds was the posting of the \$7,500.00 bond which released Joshua Balzarano from the Volusia County Branch Jail. The posting of the bond was induced by the promise of a \$750.00 payment and the service was provided before the check at issue was ever presented to Phyllis White. In fact, the agreement to provide the \$750.00 check as security pending Joshua Balzarano's payment of \$750.00 cash to Bob Barry Bail Bonds took place after the service was already rendered and Joshua Balzarano was already released from the Volusia County Branch Jail. Therefore, the check was issued as security for payment of a pre-existing debt and would at best sustain only the lesser misdemeanor proscribed by section 832.05(2), Florida Statutes (2012).

There are no material disputed facts and the undisputed facts do not establish a prima facie case of guilt against Defendant as to a third degree felony under Florida Statute 832.05(4).

WHEREFORE, the Defendant respectfully requests that this Honorable Court enter its Order of Dismissal in this cause.

Karen Spencer
KAREN MASHELLE SPENCER
Defendant

STATE OF FLORIDA
COUNTY OF VOLUSIA

BEFORE ME, the undersigned authority, personally appeared Karen Mashelle Spencer, who was sworn and said that the facts stated in the foregoing motion are true.

Sworn to and subscribed before me on _____, by Karen Mashelle Spencer who is personally known to me/produced identification.

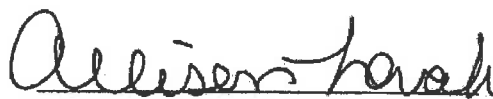
Sworn to in Open Court on 10/22/12 at 4:10 pm

Notary Public – State of Florida

My commission expires: _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by delivery to: Chris Miller, 251 North Ridgewood Avenue, Daytona Beach, FL 32114, this 29 day of October, 2012.



ALLISON A. NOVAK
ASSISTANT PUBLIC DEFENDER
Florida Bar Number: 51313
251 North Ridgewood Avenue
Daytona Beach, Florida 32114
(386) 239-7730

IN THE COUNTY COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
VOLUSIA COUNTY, FLORIDA

JUDGE DAVID H. FOXMAN

STATE OF FLORIDA,

CASE NO.: 2010-30042-MMAES

v.

GERALD L BROWN,
Defendant.

MOTION TO DISMISS

Pursuant to Fla.R.Crim.P. 3.190(c)(4), defendant, GERALD L BROWN, moves for an order dismissing the charges against him/her and, as grounds therefor, states that there are no material disputed facts and that the undisputed facts do not establish a prima facie case of guilt against defendant.

STATEMENT OF THE FACTS

On the morning of January 2, 2009 the defendant was observed walking northbound, parallel to closed businesses located at the Daytona Mall. The defendant was estimated (by the arresting officer) to be ten (10) feet away from the front of the stores while looking at the stores as he passed. The officer approached the defendant and asked the defendant if he was ok and where he was headed. The defendant told the officer that he did not have any reason to talk to him and turned to continue walking. The officer asked the defendant for his name and date of birth and the defendant refused to give the officer his personal information. The defendant was placed under arrest and charged with Loitering or Prowling and Obstructing an Officer Without Violence. Once under arrest the defendant provided the officer with his name and date of birth.

ARGUMENT

The State must prove two elements to sustain a conviction for loitering and prowling. First, the accused must be loitering and prowling in a manner not usual for law abiding citizens; and, second, the loitering and prowling must be under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property located in the vicinity. *State v. Ecker*, 311 So.2d 104 (Fla.1975). As to the first element the State must prove more than vaguely suspicious presence. As to the second, it must prove conduct that is alarming in nature, indicating an imminent breach of the peace or a threat to public safety. *Von Goff v. State*, 687 So.2d 926 (Fla. 2d DCA 1997). Further, because the crime is a misdemeanor, the elements of the offense must occur in the officer's presence, *K.R.R. v. State*, 629 So.2d 1068 (Fla. 2d DCA 1994), and the elements must be completed prior to any police action, *see E.B. v. State*, 537 So.2d 148 (Fla. 2d DCA 1989). *J.S.B. v. State* 729 So.2d 456, 457 (Fla.App. 2 Dist.,1999).

Additionally, the courts have held that even "standing late at night or in the early morning hours in back of a closed business in a high-crime area or an area in which there had been burglaries does not, without more, amount to the crime of loitering and prowling." *J.S.B. v. State*, 729 So.2d 456 (Fla. 2d DCA 1999). In the instant case the defendant was merely walking past the front of the businesses looking at them as he passed.

As a result of the unlawful arrest for Loitering and Prowling, the defendant was justifiably frustrated and angry and was charged with obstructing an officer without violence. However, "an essential element of the offense of resisting a law enforcement officer without violence is that the arrest must be lawful. Fla. Stat. § 843.02. *Gutierrez v. State*, 837 So. 2d 1095 (Fla. 4th DCA 2003). "[N]onviolent resistance to an unlawful arrest is no crime," *Baucham v. State* 881 So.2d 95 (Fla. 1st DCA 2004)

In this court stated that a suspect can commit the offense of obstructing a police officer without violence by providing false information to a police officer during a valid arrest or *Terry* stop, but the court noted that "[t]his rule ... does not obligate a person to give his or her correct identity to an officer unless that person is legally detained." *D.G. v. State*, 661 So.2d 75, 76 (Fla. 2d DCA 1995). *St. James v. State* 903 So.2d 1003, 1004 (Fla.App. 2 Dist.,2005). In the instant case the defendant was not legally detained when he refused to provide the officer with his personal information. After the defendant was arrested he did provide the officer with his name and birth date.

There are no material disputed facts and the undisputed facts do not establish a prima facie case of guilt against Defendant.

WHEREFORE, the Defendant respectfully requests that this Honorable Court enter its Order of Dismissal in this cause.

GERALD L BROWN
Defendant

STATE OF FLORIDA
COUNTY OF VOLUSIA

BEFORE ME, the undersigned authority, personally appeared Gerald L Brown, who was sworn and said that the facts stated in the foregoing motion are true.

Sworn to and subscribed before me on _____, by Gerald L Brown who is personally known to me/produced identification.

Notary Public – State of Florida

My commission expires: _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by delivery to: Stacey Kircher, 251 North Ridgewood Ave., Daytona Beach, FL 32114, this _____ day of January, 2023.

ALLISON A. NOVAK
ASSISTANT PUBLIC DEFENDER
Florida Bar Number: 51313
251 North Ridgewood Avenue
Daytona Beach, Florida 32114
(386) 239-7730