

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

STATE OF FLORIDA

CASE NO.: 2016-305286 CFDB

Plaintiff,

DIVISION: 42

vs.

MARK FUGLER,

Defendant.

_____ /

**DEFENDANT'S RESPONSE TO THE STATE'S MOTION TO
RECONSIDER THE ORDER GRANTING SUPERSEDEAS BOND**

**(which is really an unlawful motion to revoke bond since the
defendant has already posted bond and is released)**

and

**DEFENDANT'S REQUEST TO DENY RECONSIDERATION
WITHOUT A HEARING**

(defendant is currently supervised by the Volusia County Sheriff's Office)

COMES NOW, the Defendant, MARK FUGLER, by and through his undersigned attorney, hereby files this response to the state's motion to reconsider the order granting supersedeas bond (motion to revoke bond) and defendant's request to deny reconsideration without a hearing, and as grounds states the following:

1. On September 12, 2019, a hearing on the defendant's motion for supersedeas bond was heard before this Honorable Court

2. The State was afforded an opportunity to present their argument in opposition to the defendant's motion for supersedeas bond, which it zealously did at the hearing.
3. After hearing testimony and argument, this Honorable Court granted the defendant's request, imposing a large monetary bond, as well as restrictive measures to ensure that the defendant complies with the terms of his bond.
4. Respectfully, the Volusia County Sheriff's Office has created a media blitz criticizing the release of the defendant on bond.
5. In response, the State filed a motion for reconsideration based upon the publicity that said release has gained, hoping that this Honorable Court will disregard the law and cave to the pressure from the media.
6. In granting the defendant's bond, this Honorable Court followed the law and applied the applicable facts to those law.
7. It is not uncommon for a judge to make an unpopular decision in order to comply with and follow the dictates of Florida Law.
8. While this decision may not be a popular one, this Honorable Court simply followed the law.

9. This motion should be denied without hearing, especially since the motion for reconsideration is simply an attempt to revoke the defendant's bond.
10. **The state urges this Honorable Court to now revoke the defendant's bond without any lawful basis and is contrary to law.**
11. There are no grounds to revoke his bond, nor has the state presented any evidence that he has violated any terms or conditions – a threshold requirement to revoking a defendant's bond. *Saravia v. For Miami-Dade County*, 129 So.3d 1163 (Fla. 3rd DCA 2014) (State must present evidence of a change in circumstances not made known to the first appearance judge that warrants the increase or revocation of bond).
12. They cannot meet their burden -as they as simply asking to reconsider the same information and argument.
13. While it was the Volusia County Sheriff's Office who created this media storm, is the same Sheriff's Office that is monitoring and supervising the defendant who is now listed as a registered sex offender.

14. The Volusia County Sheriff's Office can certainly supervise the defendant in accordance with Florida Law to avoid any speculative flight risk.
15. The defendant is currently monitored with an ankle monitor. which he has also wore for the past 2 ½ years while his case was pending without incident.
16. The defendant did not have any intent to flee then, nor does he have any intent to flee now.
17. Local law enforcement already monitors other persons listed on the sexual offender registry and should be confident enough to ensure that the defendant complies with this Honorable Court's Order.

WHEREFORE, the undersigned respectfully requests this Honorable Court deny the State's motion without a hearing.

Respectfully submitted,

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By: /s/ Jason T. Forman
Jason T. Forman, Esq.
Florida Bar No. 109850

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this **Motion** has been sent to: the **Volusia County Clerk of the Court**, via Florida Eportal, forwarded to the **Honorable Matthew M. Foxman**, Circuit Court Judge, by email to division42@circuit7.org, and forwarded to the **Honorable R. Michael Hutcheson**, Circuit Court Judge, by email to mmurrison@circuit7.org, 951 N. Ridgewood Avenue, Daytona Beach, FL 32118; via email to eservicevolusia@sao7.org, **Office of the State Attorney**, 251 N. Ridgewood Avenue, Daytona, FL 32114; via email to terwillegera@sao7.or, **Ashley Terwilleger**, Assistant State Attorney; and via email to snowj@sao7.org, **Jacqueline Snow**, Assistant State Attorney on this 19th day of September, 2019.

Respectfully submitted,

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