

QUOTE ONLY TIME
WILL TELL

20-003

Citizen Review Board

100 Grinnell Street, Key West, FL 33040

PO Box 1946, Key West, FL 33041

(305) 809-3887

e-mail: crb@cityofkeywest-fl.gov

- What you need to know before completing the attached complaint form:
- This complaint and any attachment become public record. If you have already filed a report with Key West Police Department Internal Affairs, and you want that complaint to remain confidential until the investigation is complete, you may want to refrain from filing at this time.
- Complaints should be filed as soon as possible of the time you became aware of the incident or after resolution of any criminal charges.
- Anyone who has criminal charges pending related to this complaint should consult an attorney before filing the complaint with the CRB and such pending charges may delay the progress of the investigation of your complaint with the CRB. Further, any statements made to the CRB are public record and can be used by anyone to incriminate the complainant. All statements will be uploaded to the internet.
- Complainants must advise the CRB of any changes of address or phone number; failure to provide the CRB current information or means for CRB to contact the complainant may result in dismissal of the case.
- All documents received by this office, including medical records, photo IDs, communications and alike become public records and will be disclosed on the Internet and viewable by anyone or any person. You should consider this fact before sending any matters or materials to this office.
- The CRB and its employees and agents are not your legal representatives. You should seek independent legal representations to understand your legal rights regarding the matters referenced in your complaint.
- The CRB jurisdiction is limited to City of Key West Police Officers and NOT Monroe county sheriffs, correction officers, Florida Fish and Wildlife Officers, FDLE representatives, Florida Highway Patrol Officers, Federal Agents, Military personal and alike.

I have read and understand the information provided to me on this page.

Brian O'Neil
Name/Nombre

6-19-20
Date/Fecha

QUOTE Hey you can't take back what that officer did
to me it already has been done my complaint is
supported there are then documents and this is the
sentence I'm up under again just because I don't
want to take the time to go

1. CRB Control #

20-003

COMPLAINT FORM

Citizen Review Board

PO Box 1946, Key West, FL 33041

<http://www.cityofkeywest-fl.gov>email: crb@cityofkeywest-fl.gov

(305) 809-3887

2. Day, Date, Time
Complaint Received

7/8/2020

3. KWPD Control System #

Please provide as much information as you can about the incident(s). Use additional pages if necessary.

Suministre la mayor cantidad de información posible acerca del (de los) incidente(s). Utilice páginas adicionales si fuese necesario

A. COMPLAINANT INFORMATION

DATOS DEL DENUNCIANTE

Name: BROWN OMAR
NombreDate of Birth: 11-4-77
Fecha de nacimientoAddress: 0Keechobee Ctr
(Dirección) Street

(Ciudad) City

(Estado) State (Código Postal) Zip

Mailing Address: 0Keechobee Correction Institution
Dirección postal PO Box or Street, City, State and ZipE-Mail Address: 0Keechobee C.I.
(Dirección e-mail)Home Phone: ()
Teléfono ParticularWork Phone: ()
Teléfono del TrabajoCellular: ()
Celular

B. NATURE OF COMPLAINT: Naturaleza de la denuncia:

☐ Battery
 ☐ Rudeness
 ☐ Deficient Service
 ☒ Truthfulness
 ☐ Driving
 ☐ False Arrest
 ☐ Excessive Force
 ☐ Searches
 ☐ Other

C. INFORMATION ABOUT THE OFFICER(S) INVOLVED IN THE INCIDENT

DATOS DEL (DE LOS) OFICIAL (ES) INVOLUCRADO(S) EN EL INCIDENTE

Name: Officer MS. DIANE LIPINSKI
NombreBadge #: Key West P.D.
Placa No:Vehicle #:
Patrulla No.

Please provide a physical description of officer:

Describe la apariencia física del oficial: SHE IS A WOMAN WHITE WOMANName:
NombreBadge #:
Placa No:Vehicle #:
Patrulla No.

Please provide a physical description of officer:

Describe la apariencia física del oficial: Name:
NombreBadge #:
Placa No:Vehicle #:
Patrulla No.

Please provide a physical description of officer:

Describe la apariencia física del oficial:

D. VICTIM/WITNESS INFORMATION
DATOS DE LA VICTIMA/TESTIGO

Did you witness the incident? Yes ☐ No ☒
¿Fue usted testigo del incidente denunciado? Si ☐ No ☒

If you are filing a complaint on behalf of someone else, what is your relationship, if any, to the person(s):
Si usted está presentando una denuncia en nombre de otra(s) persona(s), indique cuál es su relación, si la hay, con esa(s) persona(s):

Parent ☒ Spouse ☒ Relative ☒ Guardian ☒ Child ☒ Friend ☒ Other ☒
Padre/Madre ☒ Conyuge ☒ Familiar ☒ Tutor ☒ Hijo/a ☒ Amigo/a ☒ Otra ☒

Please provide as much of the following information as you can about the person(s) on whose behalf the complaint is filed and any witness(es) to the incident:

Suministre la mayor cantidad posible de la información que se solicita a continuación, sobre la (las) persona(s) en nombre de la(s) cual(es) presenta la denuncia, y sobre el (los) testigo(s) del incidente:

Victim/Witness #1

Victima/Testigo No. 1

Is this person a: victim ☐ witness ☐

Esta persona es: víctima ☐ testigo ☐

Name: _____
Nombre _____
Address: _____ City _____ State _____
Dirección: _____ Ciudad: _____ Estado: _____
Zip Code _____ Contact numbers: Telephone _____ Cell _____
Código Postal _____ Teléfono _____

Victim/Witness #2

Victima/Testigo No. 2

Is this person a : victim ☐ witness ☐

Esta persona es: víctima ☐ testigo ☐

Name: _____
Nombre _____
Address: _____ City _____ State _____
Dirección: _____ Ciudad: _____ Estado: _____
Zip Code _____ Contact numbers: Telephone _____ Cell _____
Código Postal _____ Teléfono _____

Victim/Witness #3

Victima/Testigo No. 3

Is this person a : victim ☐ witness ☐

Esta persona es: víctima ☐ testigo ☐

Name: _____
Nombre _____
Address: _____ City _____ State _____
Dirección: _____ Ciudad: _____ Estado: _____
Zip Code _____ Contact numbers: Telephone _____ Cell _____
Código Postal _____ Teléfono _____

Please provide as much information as possible, using additional pages if necessary.
 Suministre la mayor cantidad de informacion posible, utilizando páginas adicionales si fuese necesario.

SEE
ATTACH

SEE
AT 1214

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook page.

Have you ever been convicted of a felony? Yes ☒ No ☐

Signature of Complainant

6-19-20
Date signed

Complaint Received by:	Complaint Reviewed by:	Action Taken:
Date complaint forwarded to Chief of Police: _____		

① attach

COMPLAINT

QUOTE ONLY TIME
WHITELL

20-003

TO THE CITIZEN REVIEW BOARD IT IS NICE OF YOU TO PRESERVE
BACK OF MY LETTER OF MY COMPLAINT AND THANKS FOR SENDING
ME THIS COMPLAINT FORM TO FILL OUT NICE OF YOU AND IT'S
ALSO BEEN TOLD THAT MY COMPLAINT WILL BE UPLOADED TO THE
INTERNET. HEY OF MY COMPLAINT OF THIS OFFICER DIANE
DIPINSKI OF THE NEW YORK POLICE DEPARTMENT I DON'T NO
IF SHE IS STILL THERE BUT SHE WAS THERE WHEN THESE THINGS
WAS DONE TO ME AT MY FIRST TRIAL AND SHE WAS UP UNDER
CHIEF LEE COMMAND AT THE TIME AND HE KNEW OF THIS
AT THE TIME, NATURE OF COMPLAINT. UNTRUTHFULNESS THIS
NEW YORK OFFICER AT THE TIME OFFICER MS. DIANE DIPINSKI
FALSE TESTIMONY AT MY FIRST TRIAL HAS COST ME MANY YEARS
OF WHERE I'M DOING MY SECOND LIFE SENTENCE OF THE SAME
EVIDENCE AND OF THE SAME LIES OF WHAT WAS TOLD OF ME
AT MY FIRST TRIAL JUST BECAUSE I TALKED DOWN THE TIME
SERVE ON WHEN I WON MY FIRST TRIAL CHIEF LEE
NO ABOUT IT OR WHAT I TOLD THE STATE OF WHAT THEY COULD
DO WITH IT HEY THEY COULDN'T JUST BRUSH ME TO THE SIDE
LIKE THAT ON KNOWING WHAT THEY DID TO ME AT MY FIRST
TRIAL HEY YOU COULD NEVER TAKE THAT BACK ON WHAT THE
OFFICER DID TO ME OF THE FALSE TESTIMONY OF HER HAVING
A PHOTO COPY OF A DRIVER LICENSE OF ME TO THE JURORS AND
THE STATE HAD ALLOWED IT TO HAVE HAPPENED TO ME THEY
EVEN ALLOWED THE PARASHIP CLAIM TO TESTIFY TO THE
JURORS THAT I HAD PROVIDED TO HAVE A PHOTO COPY OF MY
DRIVER LICENSE TO HAVE UPON A TRANSACTION HE PAID WITH ME
HEY OFFICER DIANE DIPINSKI WHEN SHE WAS TELLING THE
JURORS A LIE OF HER HAVING A PHOTO COPY OF A DRIVER LICENSE
OF ME BECAUSE I NEVER HAD A PHOTO COPY OF ANY KIND
OF DRIVER LICENSE AND HOW COULD I HAVE PROVIDED THE
PARASHIP CLAIM WITH A COPY OF A PHOTO DRIVER LICENSE OF ME
AND I NEVER HAD ONE, HAD THE JURORS KNOWN THAT
THEY WAS LIES TO BY THAT OFFICER DIANE DIPINSKI UPON THE
PRESENCE OF THE NOTE THEY SENT TO THE JUDGE UPON
THEY DECIDED ASKING TO SEE THE PHOTO COPY OF THE

driver license that Officer Diane Lipinski just got them
telling them of what she have of me had the jurors
knew the officer had lied to them of her having
a photocopy of a driver license of me when you think
the out come of my first trial would have been they
I'm disliking the false testimony that was told to the
jurors by Officer Diane Lipinski has cost me my free
dom ever since she lied to the jurors at my first
trial they missed in these documents of what I'm saying
and showing what they did to me they I say that
Officer Diane Lipinski was untruthful at my first trial
when she told the jurors that she have a photocopy of a
driver license of me they she say she have one I say
she don't, one of us is lying they of my complaint of
Officer Diane Lipinski untruthfulness the damage has been
done the years I've lost behind them lies can never be
taking back so all this shite about a pending charges may
delay the progress of the investigation they my claim of my
complaint is right in these documents they it's almost 4 years
and on my second life sentence of the lies of what that
police officer told the jurors of me of my first trial and
the judge in my second trial convicted me of the same
lies of this officer and the partnership clerk same testimony
they my complaint is all about my first trial of the officer
telling the jurors the lie on me that is where my first
life sentence comes from they ever since they did it
to me I've argued it in every motions I've ever filed
see for you'll see they facts you'll see what I'm saying
on my the hearing

they ENOTT IS ENOTT

Justice Delayed

is
Justice Denied

Proton they you have my letter
of my complaint and the
documents supporting
my complaint of that
Officer Diane Lipinski

1 stopping it as quickly as possible.

2 When this case and this arrest came about, the
3 police were under pressure to resolve the case. It
4 was in the public eye. This matter itself appeared
5 25 times in the *Citizen*. It sparked a three-year
6 investigation of the police department, and it was
7 necessary for the police to close this case out.

8 The evidence that you'll hear will have to be
9 judged by you, and you'll have to decide if the
10 witnesses are credible or not. And what you'll find
11 is, the more evidence that a witness tries to
12 present to you, the less credible they will seem.

13 The employees of the jewelry store know that
14 two men entered. They believed them to be two black
15 men, and that is the only description they have of
16 them. The police department believes that's
17 Laquenton Cade and Omar Brown. They will ignore the
18 fact that they found other black men who could have
19 been involved in this case. They will ignore the
20 fact that there's not physical evidence tying
21 Mr. Brown to the case.

22 You'll hear that Mr. Brown made admissions,
23 but you'll hear the police admit that, "Well, he
24 didn't really make admissions. Well, we tried to
25 trick him, but he never said so." Well, that's not

1 really what happened.

2 And you'll hear that ^{*}Mr. Brown supposedly
3 pawned some of the jewelry that was involved here.
4 You'll also hear that that pawnbroker was dishonest,
5 that he falsified documents, that that evidence is
6 unreliable.

7 When all is said and done, what you'll be left
8 with is the police telling you it was Omar Brown,
9 not proving it to you but telling you that that's
10 what happened, that that's what they believe, that
11 that's what their evidence shows. But you won't
12 have any evidence you can actually lay your hands on
13 and say Omar Brown was responsible for this.

14 I'll trust you to listen to all the evidence.
15 I'm not going to walk you through all of it piece by
16 piece. There's no doubt that Laquenton Cade
17 committed this offense. There is extreme doubt as
18 to who committed the offense with him. When you
19 review the evidence and the reliability of the
20 witnesses, there will be more than enough doubt for
21 you to find Omar Brown not guilty of these crimes.

22 THE COURT: Do you want to call your first
23 witness, please.

24 MR. MADRUGA: Yes, your Honor. We would call
25 Ms. Clara Roberts.

* * *

1
2 THE COURT: All right. Call Mr. Omar Brown's
3 case.

4 Is the State ready to proceed?

5 MR. MADRUGA: Yes, your Honor.

6 THE COURT: Mr. Bridger, defense?

7 MR. BRIDGER: Judge, I was just speaking with
8 Mr. Brown. We had intended to come in today and
9 pick our jury, proceed to trial. One of the
10 missing piece of evidence from the State's case,
11 what we intend to use as our defense, Mr. Brown is
12 requesting that I file a motion and request a copy
13 of his driver's license from the pawnbroker. He
14 says if the State can produce that item, he'll take
15 a plea. If the State cannot produce --

16 THE COURT: The only plea that I'll accept
17 today is a straight-up plea to the Court.

18 MR. BRIDGER: If the State cannot produce it,
19 he says he wants to waive his right to a jury trial
20 and proceed with a trial by Court.

21 I let Mr. Brown know I would put both those
22 things on the record for the Court today, but
23 that's what he's telling me he wants to do today as
24 far as proceeding.

25 THE COURT: Well, first of all, the State has

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1 to approve a waiver of a jury trial, and I doubt
2 they're going to do this at this point. I don't
3 know.

4 But, first of all, do you know what he's
5 talking about, Mr. Madruga, about a driver's
6 license?

7 *Shepherd* MR. MADRUGA: This hasn't been discussed with
8 *by the Judge* me. So no. Your Honor, I do not.

9 THE COURT: Is there a copy of a driver's
10 license of Mr. Brown's that you have in your
11 possession?

12 MR. MADRUGA: No, your Honor. I don't.

13 THE COURT: Okay. There's your answer.

14 MR. BRIDGER: As I said, Judge, it was going
15 to be part of our defense. So Mr. Brown is
16 requesting that it be produced. It would be part
17 of the testimony that will be read into the court
18 from the pawnbroker, Mr. Ali, who is not available
19 for trial this time.

20 THE COURT: Okay. Well, there is no copy of a
21 driver's license, so that's the answer.

22 THE DEFENDANT: Judge, could I say something?

23 THE COURT: No. Your attorney speaks for you.
24 In fact, you need to sit down and be quiet.

25 THE DEFENDANT: We cannot go forward.

1 THE COURT: You need to sit down, Mr. Brown.

2 Okay. So we're going to go to -- State want
3 to agree to a waiver of a jury trial?

4 MR. MADRUGA: Yes, Judge. We'll agree to a
5 waiver. It will save time.

6 THE DEFENDANT: This is evidence that they're
7 using against me and I'm entitled, if they're going
8 to get up here and say my driver's license --

9 THE COURT: Mr. Brown, let me save you some
10 time. All right. If Mr. Bridger wants to make an
11 argument about it, I'll be glad to. I'm not saying
12 that this is the way I would rule, but my
13 understanding of the law on what the issue I think
14 you're bringing up is that if ^{XX}the State can
15 establish that this gentleman from the pawnshop is
16 describing something he saw at the time, it's
17 admissible. It's not -- it doesn't fall under a
18 hearsay exception. It's admissible because it's a
19 present sense impression.

20 Okay. So I want you to under -- I don't know
21 if that's what you're discussing, but I heard a
22 little bit about what you said. I want you to
23 understand in your discussion with Mr. Bridger,
24 it's my understanding -- now I'm willing to listen
25 to any argument Mr. Bridger wants to make on the

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1 issue, and I have not made up my mind because I
2 haven't heard the argument. No matter what you
3 said in the past, I don't make my mind up before I
4 come in here. So I want you to understand that.
5 Okay?

6 THE DEFENDANT: Okay.

7 (Pause in the proceedings.)

8 THE COURT: All right. Mr. Bridger, what are
9 we going to do?

10 THE DEFENDANT: I can't win with this. It's
11 right here. Judge, I had a warrant for driving
12 with no license while I'm in jail. I plead out to
13 driving with no license when I was in jail. You
14 the one signed the warrant for my arrest for
15 driving with no license. Right here. It's right
16 here. I never had no Florida driver's license.
17 They're planning on using this against me. This is
18 a crucial piece of evidence that found me guilty
19 last time. It was lied to. They say you cannot be
20 found guilty without reasonable doubt. I got found
21 guilty with a lie and reasonable doubt.

22 MR. BRIDGER: Judge --

23 THE DEFENDANT: I'm not just talking. I'm
24 producing this.

25 THE COURT: Mr. Brown, let us -- let us do our

1 business, please. Everybody has heard what you
2 said. I understand what the situation is.

3 Mr. Bridger.

4 MR. BRIDGER: I would like to take about a
5 five-minute recess with Mr. Brown. I'd like to
6 kind of talk with him a little more and explain. I
7 think he's, you know, about to try and waive a jury
8 trial, which is a major decision to be made. I
9 think he's just acting a little rash right now.

10 THE COURT: Yeah, that's fine. You can have a
11 few minutes. Go ahead.

12 Adam, can you arrange for them to speak in the
13 room, please.

14 THE DEFENDANT: ^{XX} Judge, you going to allow this
15 to happen to me?

16 THE COURT: I'm sorry?

17 THE DEFENDANT: Judge, are you going to allow
18 these people to do this to me or are you going
19 to --

20 THE COURT: Mr. Brown, I'm not allowing
21 anything. I'm just sitting here. All I do is be a
22 referee over the trial and make sure things are
23 done appropriately.

24 THE DEFENDANT: Sir, you signed the warrant.

25 THE COURT: I heard -- I heard everything you

1 said. Before you start talking to me about stuff,
2 I want you to speak to Mr. Bridger. All right?

3 I'm just trying to protect your rights.

4 THE DEFENDANT: It's going to be the same.

5 THE COURT: I'm just trying to protect your
6 rights. I promise you that that's what my number
7 one goal is; to make sure it's a fair trial.

8 (Mr. Bridger and defendant exit courtroom.)

9 THE COURT: I want this to be on the record,
10 even though the attorney -- Mr. Bridger and
11 Mr. Brown are talking.

12 Mr. Madruga, can you -- can you run a driver's
13 license record and have it for us at some point?

14 MR. MADRUGA: I have it.

15 THE COURT: Okay. You do?

16 MR. MADRUGA: Yes.

17 THE COURT: Okay. Can you give that to
18 Mr. Bridger?

19 MR. MADRUGA: I think all of this was provided
20 → in original discovery. Show it to me they can't

21 THE COURT: Does it show that he does have a
22 license?

23 MR. MADRUGA: No. It shows he has a license
24 number. It was issued to him. So he has a
25 driver's license number in his name.

QUOTE: THERE ARE
NO COPY OF A PHOTO
DRIVER LICENSE NO
WHERE IN MY

QUOTE: NOT A PHOTO
DRIVER LICENSE

State Money

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1 It's our position that he provided that
2 information. And we also have the affidavit, which
3 isn't admissible, from the actual clerk that shows
4 that not only was that provided, he also provided
5 his ID from the state prison with his DC number on
6 it. But we didn't use that in the first trial
7 because it's prejudicial.

8 THE COURT: Okay. Then I think I understand
9 the situation a little better now.

10 So when he comes in and starts talking about
11 it, I'll get you to explain that on the record.

12 MR. MADRUGA: I have a file basically with all
13 the discovery. I don't have it here with me. I
14 brought a very abridged file. I've got it in my
15 file back in the office, and it was all provided in
16 discovery.

17 THE COURT: Okay. Thank you.

18 All right. We'll just be at ease until
19 they're ready.

20 (Recess taken.)

21 THE COURT: Mr. Bridger, before we get to
22 anything that deals with you and what your client
23 are doing, I want to let you know that when you
24 went in with Mr. Brown, I did talk with Mr. Madruga
25 very briefly. I asked him basically one question.

9/18/18 IF THE STATE
INDEX THE FILE WITH
ALL THE DISCOVERY
WHERE IS A COPY
OF MY PHOTO ID
THAT THE POLICE
CLAIM SHE HAD
SEE PAGE 918 OF
OFFICER LIPINSKI

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1 I asked him if he could run a driver's license
2 record for Mr. Brown so that we had it.

3 He indicated to me that he had turned that
4 over in discovery. And he also volunteered the
5 information that there was more than just the
6 driver's license information that was gotten by
7 this gentleman who was the clerk or the pawnshop
8 person, but that the other ID that was produced by
9 Mr. Brown was an actual Florida State Corrections
10 ID with his picture. It's in the affidavit --
11 that's what Mr. Madruga told me -- from this
12 person, but it wasn't used obviously because doing
13 that kind of discussion in front of the jury would
14 obviously be inappropriate.

15 So I wanted you and Mr. Brown to know that
16 that's what Mr. Madruga said to me when I asked him
17 if he could run the driver's license. And I think
18 he indicated that there was a driver's license
19 number assigned to Mr. Brown by the DMV, and that's
20 the information that was turned over.

21 So I wanted you to know I had that discussion
22 because obviously I want to make sure that whatever
23 information Mr. Brown needs is there.

24 Did I represent that appropriately,
25 Mr. Madruga?

Quote on the final
ship it says nothing
other than official
Photo I.D. TYPE DL

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1 MR. MADRUGA: Yes, Judge. And I can even add
2 to that. We were aware of his DL because before
3 the robbery -- and I forgot exactly when it was --
4 and we have provided this in discovery as well --
5 he got arrested for driving while license
6 suspended. So when you get arrested for an offense
7 of driving, you're going to have a DL number and
8 that was put in the paperwork of that driving while
9 license suspended case that predated the robbery.
10 So we know that's his number and we know it's
11 assigned to him.

12 And we also have the affidavit from the
13 detective in Miami about the DC number as well.

14 So as far as the connection of this event to
15 Mr. Brown, we're quite satisfied.

16 THE COURT: Okay. So, anyway, I just wanted
17 you to have that information. I'm not saying I'm
18 ruling on anything. I'm not determining anything.
19 I just wanted to make sure the information was in
20 the record and on there because of the discussion
21 that we've already had.

22 So, Mr. Bridger, what's your situation?

23 MR. BRIDGER: Judge, I've spoken with
24 Mr. Brown. Mr. Brown feels I should have filed a
25 motion to exclude this evidence. He does not want

1 to proceed to trial today with me with this
2 evidence coming in. So he would be requesting a
3 continuance and we can file additional pretrial
4 motions.

5 THE COURT: Well, first of all, I don't know
6 that the evidence is going to come in because I
7 haven't ruled on any objections. But your motion
8 to continue is going to be denied. We're here.
9 We're ready to go. Mr. Brown has demanded a jury
10 trial for months. He's been complaining about the
11 fact that it's taking so long. We're going to
12 trial today.

13 All right. Mr. Madruga has out-of-town, maybe
14 even out-of-state -- people that are here. We're
15 ready to go. So that's not going to happen.

16 The motion to continue will be denied at this
17 point.

18 MR. BRIDGER: Then, Judge, it's up to
19 Mr. Brown if he wants to then proceed, you know,
20 waive his jury trial. I advised him against it,
21 but it's his decision what he wants to do regarding
22 a jury or a trial by Court.

23 THE COURT: All right. Mr. Brown, have you
24 decided what you want to do in that regard?

25 THE DEFENDANT: Yeah. Based on you hearing my

1 argument and the record speak for itself, I
2 understand what Mr. Madruga said about a Florida
3 prison ID was provided. There's no picture of a
4 Florida identification in my discovery and I have
5 gotten hold of my discovery for the last ten years.
6 There is nothing on this pawn slip transaction form
7 that says nothing other than official
8 identification, DLs.

9 And when the pawnshop dealer got on the stand
10 and testified to this here, he was -- he stated
11 what type of identification were you provided. He
12 said DL.

13 Were you provided a Florida driver's license
14 on Mr. Brown's driver's license number, and he say,
15 "Yes. Correct."

16 During the process, when Officer Danielle
17 Pearson got on the stand, she was asked about her
18 being the lead detective in this situation with
19 this pawn slip. She got on the stand and said she
20 received a copy of my driver's license from the
21 Florida DMV. She have a copy of it.

22 During deliberations, the jury stating to
23 know that and requesting to see a copy of the
24 driver's license that Officer Diana Pearson claimed
25 she had, that she told them.

1 They wrote back on the note "That is not in
 2 evidence." They didn't let the jury know that it
 3 don't exist, she's fabricating, she told him a lie.

4 So, you know, it was crazy how it went down
 5 because it was a blind -- it was a side blind ways
 6 type of situation. But now here it go, I'm getting
 7 ready to go through trial again and they planning
 8 on using this same type of evidence against me. It
 9 doesn't say nothing about no inmate ID.

10 The whole situation was the last trial was
 11 based on Florida identification ID. That's what on
 12 my trans -- I'm just saying that's what on this
 13 thing.

14 THE COURT: I understand what you're saying.

15 THE DEFENDANT: Whatever the State's saying,
 16 it's a non proof of fact because there's no where
 17 in my discovery with no Florida prison ID with a
 18 picture on it.

19 THE COURT: Okay. Mr. Brown, regardless of
 20 all that information, do you want to go to trial
 21 with a jury or do you want to go to trial with the
 22 Court?

23 THE DEFENDANT: I have to go to Court. I'm
 24 not going to put my life in a jury hand because
 25 they was misled and lied to last time. And based

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1 on the fact you know the law and hope, you know
2 what I'm saying, you uphold the law and you stand
3 for the law, I want a trial by judge based on you
4 know what's going on with this situation now. * I
5 prefer to have a trial by you.

6 THE COURT: All right. Would you raise your
7 right hand, please? I need to do this under oath.

8 Do you swear to tell the truth, the whole
9 truth, and nothing but the truth, so help you God?

10 THE DEFENDANT: Yes, I do.

11 THE COURT: All right. You understand you do
12 have a right to a jury? You have a right to have a
13 jury make a decision based on the facts and the
14 arguments made by the attorneys and the
15 instructions the Court will give to the jury at the
16 end of the case. And you do also have a right to
17 waive that right to have a jury if that's what you
18 wish to do.

19 If you decide to waive the right to a jury,
20 then I will hear all the evidence. I will make the
21 decision on whether the State has met its burden as
22 the judge and I will listen to all the arguments
23 and make a decision based on what's presented. And
24 you understand all that?

25 THE DEFENDANT: Yes.

1 THE COURT: And what you're telling me now is
2 you're not comfortable with the jury making a
3 decision because you feel that if they're given the
4 same evidence as was presented in your first trial
5 on the ID issue at the pawnshop, you feel that --
6 you aren't comfortable with them making that
7 decision? That's one of the reasons why you're
8 making this decision; is that correct?

9 **
10 THE DEFENDANT: Yes.

11 THE COURT: Okay. Is there anything else that
12 you wanted to explain to me or do you have any
13 questions about your right to a jury trial?

14 THE DEFENDANT: I don't want a jury trial at
15 all. I want a trial by judge.

16 THE COURT: Okay. Have you discussed this
17 decision with Mr. Bridger?

18 THE DEFENDANT: Yes, I just did.

19 THE COURT: Are you satisfied with the advice
20 he might have given you? And he -- I assume he
21 talked to you about the pros and cons of going to
22 trial by court and a trial by jury?

23 THE DEFENDANT: Well, I basically know the
24 pros and cons. So I'm ready to go, move forward.

25 THE COURT: Okay. All right. Mr. Madruga, do
 you have any objection to going to trial by court

1 in Mr. Brown's case?

2 MR. MADRUGA: I do not, Judge.

3 I want to caution or have the Court caution
4 Mr. Brown that if he makes his decision now, he
5 can't come in tomorrow and then want a jury trial
6 and a way to try to get a continuance on this case.

7 THE COURT: Yeah. You understand that,
8 Mr. Brown?

9 THE DEFENDANT: Judge, I done got my point *
10 across to you. I'm ready to start this whenever
11 ya'll are ready.

12 THE COURT: Okay. I'm going to ask
13 Mr. Bridger to write out a waiver so you can sign
14 it because it has to be in writing. And then I'll
15 ask you if that's your signature and you understand
16 the pros and cons again.

17 And then what we'll do is, once we get that
18 done, then we'll go ahead and start taking the
19 testimony and the arguments. We'll start with the
20 opening statements tomorrow at 8:30 and we'll go
21 ahead with the trial tomorrow.

22 THE DEFENDANT: Yes.

23 THE COURT: Okay. So I'm going to give
24 Mr. Bridger a few minutes to get that done.
25 Mr. Brown, you can stay here while he does that.

OFFICE 11/1/57
WRITE ON THE
SAND AT MY
FIND TRAIL

1 driver's license; correct?

2 A Correct.

3 Q Did you ever seize or obtain a copy of Mr. Brown's
4 driver's license? Did you get a copy from the Department of
5 Motor Vehicles of his driver's license?

6 A I have a photocopy. SEE PAGE 171

7 Q Do you have it with your documentation?

8 A No, sir, I don't.

9 Q You don't have it with you?

10 A Not with me.

11 Q So you met, then, eventually with Tim Greene from
12 Beachcombers; correct?

13 A Yes, sir.

14 Q And when you met with Mr. Greene, you talked to
15 him initially about the incident, correct, what happened?
16 Not about the jewelry?

17 A Yes.

18 Q And you discussed with Mr. Greene the
19 identification of Mr. Brown; correct?

20 A Yes, sir.

21 Q And was he able to tell you that he identified
22 Mr. Brown?

23 A Yes, he was.

24 Q Okay. And how did he tell you that?

25 A He said he was able to identify him from seeing

10X

EXHIBIT A3

Rec'd last in copy or new pp. area

Short and back

The jurors requested to
see this during their
deliberations

Can we see the photocopy of
Mr Brown's drivers license
that officer Lipinski claims she
has?

Maley

JURY FOREPERSON

10/27/10

SEE what the judge
want on the note and
send it back to the
jurors

NO, IT IS NOT IN EVIDENCE

1

Judge Payne

Q: This was told to the
jurors from the judge
see documents or not

second trial on this same
issue of this copy of
A photo of license of me

06-CF-1071-A-K

FILED P.D. 10
2010 OCT 27 PM 5:10

EXHIBIT SUPPORTING CLAIM TWO

RACE/ BLACK
SEX/ MALE
HGT/ 5 07
WGT/ 150
HAIR/ BLACK
EYE/ BROWN
DOB/ 11/04/77

BENCH WARRANT

ORIGINAL

IN THE SIXTEENTH JUDICIAL
CIRCUIT IN AND FOR MONROE
COUNTY, FLORIDA

MCS006AR007906
CASE NO. 44-2005-CT-001788-K

THE STATE OF FLORIDA,

VS

OMAR RICARDO BROWN
3636 DUCK AVE

KEY WEST

FL 33040

COUNTY COURT DIVISION

IN THE NAME OF THE STATE OF FLORIDA, TO ALL AND SINGULAR THE SHERIFF'S
OF THE STATE OF FLORIDA, GREETING:

YOU ARE HEREBY COMMANDED TO ARREST OMAR RICARDO BROWN IF HE BE
FOUND IN YOUR COUNTY, AND BRING HIM BEFORE THIS HONORABLE COURT FORTH-
WITH TO SHOW CAUSE WHY HE FAILED TO APPEAR AS SUMMONED FOR
DOCKET SOUNDING FOR THE FOLLOWING CHARGE(S):
322.34(DRIVING WITH SUSPENDED LICENSE

DONE IN OPEN COURT, THIS 06TH DAY OF SEPTEMBER, 2006

BOND: 20,000.00

JUDGE

(SEAL)

RECEIVED THIS WARRANT THE _____ DAY OF _____, 20____
AND EXECUTED THE SAME BY ARRESTING THE WITHIN NAMED _____
AND HAVING _____ H. BODY _____ NOW BEFORE THE COURT.

Pls "Driving with Suspended License"
** ARREST WARRANT DATE Sept 6, 2006
Transaction Receipt Date Sept 6, 2006
Something didn't right you do the math??

RECEIVED
SHERIFF'S OFFICE
MONROE COUNTY
SEP 12 AM 9:55

AFFIDAVIT

I, FAAR AL, AN EMPLOYEE OF CASH TAN - SOUTH
(Pawn Shop Employee) (Name of Pawn Shop)

LOCATED AT 21475 S DIXIE Miami FL 33189
(Address) (City)

ON 09-06-06, 2006, CONDUCTED A PAWN TRANSACTION
(Date of Transaction)

WITH AN INDIVIDUAL WHO IDENTIFIED HIM/HERSELF AS _____
(Name)

OMAR Brown, A B/M WITH A DATE OF BIRTH OF _____
(Race/Sex)

Quote "No picture
of any kind to support
any of these claims"

11-4-77 *** THIS IDENTIFICATION WAS VERIFIED BY THE Quote "Ripped up"
PRESENTATION OF A *IMAGID A-K00574 AS
(Identification Presented)

IDENTIFICATION. THIS INDIVIDUAL PAWNED 12 RINGS BANDS
(Items Pawned)

IN RETURN FOR \$ 325.00 AT THE TIME
OF THE TRANSACTION, THE INDIVIDUAL AFFIXED HIS/HER THUMBPRINT
TO FLORIDA PAWNSHOP TRANSACTION FORM # 200609389.

I SWEAR OR AFFIRM THAT THIS STATEMENT IS TRUE AND CORRECT TO
THE BEST OF MY KNOWLEDGE AND BELIEF.

Farey AL
(Affiant)

Sworn before me, pursuant to FS 117.10,
This 7 day of February, 2006.

Law Enforcement Officer Signature

PRINT NAME: OMAR D. BROWN
BADGE: 200
POLICE CASE NUMBER: _____

1 yourself to the members of the jury, and spell your last
2 name for the court reporter.

3 A My name is Faraz Ali, last name is A-l-i.

4 Q And Mr. Ali, I want to turn your attention back to
5 September 6 of 2006. Were you employed at that time?

6 A Yes, sir, I was.

7 Q And where were you working?

8 A Cash Inn South.

9 Q And how long had you worked there back at that
10 time?

11 A Close to six years.

12 Q And were there procedures and documentations that
13 you would do at that shop for people who pawned items?

14 A Yes. They would bring their ID, and there is a
15 property form that we fill out.

16 Q Okay. And that was your job; correct?

17 A Correct.

18 Q I want to turn your attention specifically to
19 September 6 at approximately 4:27 p.m. Did you have a
20 transaction at that location with an Omar Brown?

21 A Yes, we did.

22 Q And was that document -- that transaction
23 documented by way of a pawn slip?

24 A Yes, sir, it was.

25 Q I'm going to show you what's been marked State's

QUOTE
PAWN SHOP CLERK
TESTIMONY AT MY
FIRST TRIAL

✱✱

627

PAWNSHOP CLERK
MR. FARAZATI

1 were provided identification?
2 A Yes.
3 Q And what type of identification were you provided?
4 A DL.
5 Q So you were provided a driver's license,
6 B650-640-77-404-FL; right?
7 A Correct.
8 Q And then here is the address; correct?
9 A Yes, sir.
10 Q And here is the name; correct?
11 A The name, the time, and the date.
12 Q The time and the date; correct?
13 A Yes.
14 Q You have all that information. And then down here
15 is?
16 A The thumb print.
17 Q Whose thumb print would that be?
18 A The person that pawned the rings.
19 Q When was that taken?
20 A Right after the transaction is done.
21 Q All right. You can take your seat. I had a
22 question. Is this the only document? I asked you about the
23 document. Was this a triplicate form, or is that the only
24 document?
25 A This is the original form. That's a copy.

12 02 88-1 Rev 2000 MARSHAL LAKE POLICE DEPARTMENT MAY 1985 12 0

PROPERTY REPORT

Exhibit Supporting Claim No

MIAMI-DADE POLICE DEPARTMENT

Agency Report Number

PD061005512575

Date of Suppliment
10-05-2006

Primary Offense Description
PAWN SHOP RECORDS VIOLATION

Victim At Home
STATE OF FLORIDA

1. Type Theft 2. Burglary 3. Motor Vehicle Theft 4. Other	5. Person Code 6. Property Code 7. Other	8. Person Code 9. Property Code 10. Other	11. Person Code 12. Property Code 13. Other	14. Person Code 15. Property Code 16. Other	17. Person Code 18. Property Code 19. Other	20. Person Code 21. Property Code 22. Other	23. Person Code 24. Property Code 25. Other	26. Person Code 27. Property Code 28. Other	29. Person Code 30. Property Code 31. Other	32. Person Code 33. Property Code 34. Other	35. Person Code 36. Property Code 37. Other	38. Person Code 39. Property Code 40. Other	39
--	--	---	---	---	---	---	---	---	---	---	---	---	----

Person	Code #	Item #	Status	Damage	Property Type	Quantity	Value	Date Received	FOC/DC
V	1	1	9	0	Z	1	41.00	10-05-2006	FOC/DC

Person	Code #	Item #	Status	Damage	Property Type	Quantity	Value	Date Received	FOC/DC

Person	Code #	Item #	Status	Damage	Property Type	Quantity	Value	Date Received	FOC/DC

Person	Code #	Item #	Status	Damage	Property Type	Quantity	Value	Date Received	FOC/DC

Person	Code #	Item #	Status	Damage	Property Type	Quantity	Value	Date Received	FOC/DC

Person	Code #	Item #	Status	Damage	Property Type	Quantity	Value	Date Received	FOC/DC

Person	Code #	Item #	Status	Damage	Property Type	Quantity	Value	Date Received	FOC/DC

Activity	Type	Description	Quantity	Unit	Estimated Street Value
					\$
					\$
					\$
					\$

THE 12 RINGS WERE LATER IDENTIFIED A STOLEN PROPERTY TAKEN IN AN ARMED ROBBERY TO A JEWELRY STORE IN KEY WEST FLORIDA (SEE PHOTOGRAPHS)

Officer (s) Reporting DET. D. BOHNE	Officer (s) Reporting (If Applicable) SGT. P. ZAHARAKOS	Officer Number 3418	Referred To GIU	Referred To BOHNE	Assigned To AA	By PZ	Date 10-05-06	Date 10-05-06
--	--	------------------------	--------------------	----------------------	-------------------	----------	------------------	------------------

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT OF THE
STATE OF FLORIDA, IN AND FOR MONROE COUNTY, FLORIDA

STATE OF FLORIDA,
Plaintiff,

CASE NO.: 2006-CF-1071-A-K

vs.

OMAR RICARDO BROWN,
Defendant,

MOTION TO COMPEL DISCOVERY

Comes now the Defendant, OMAR RICARDO BROWN, by and through his undersigned attorney, and requests this Honorable Court to order the State of Florida to comply with Florida Rule of Criminal Procedure 3.220 (2009) and provide the defense with discovery. As grounds for such request the defense would state as follow:

1. On December 7, 2006, the defendant served the state with a Notice of Discovery.
2. Within fifteen (15) days after service of the Notice of Discovery, the prosecutor shall serve the defendant with a written Discovery Exhibit. Fl. R. Crim. Proc. 3.220(b).
3. In this case, discovery was received by the Defendant as well as supplemental discovery.
4. In trial, during the cross examination of Officer Dianne Lipinski, Officer Lipinski stated that she had identified the Defendant as having pawned jewelry believed to be stolen by the Driver's License allegedly provided to the pawn broker and allegedly belonging to the Defendant. When asked where the Driver's License was, Officer Lipinski stated that she did not have it with her.
5. The Defendant at no point received this crucial piece of evidence.
6. As of the date of this motion the defense has yet to receive discovery in this matter.

WHEREFORE, Defendant respectfully requests this Court to compel the State of Florida to provide the defense with the above requested discovery.

DATE AND ST/11
AS OF TODAY
2010 HOW
LONGER DO I HAVE
TO WAIT IN ORDER TO
SEE A COPY PHOTO OF
MYSELF I'M DOING
LIFE CAUSE OF IT
?

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by mail/hand-delivery to the Office of the State Attorney, Sixteenth Judicial Circuit, 530 Whitehead Street, Key West, Florida 33040 and to the Law Office of Richard Wunsch, 614 Whitehead Street, Suite 1, Key West, Florida, 33040 this 19th day of November, 2010.

Respectfully submitted.

LAW OFFICES OF
MANUEL E. GARCIA, P.A.
515 Whitehead Street
Key West, FL 33040
(305) 292-1437

By: 

MANUEL E. GARCIA, ESQ.
Florida Bar No. 915645

IN THE CIRCUIT COURT OF THE 16TH
JUDICIAL CIRCUIT OF THE STATE OF
FLORIDA IN AND FOR MONROE COUNTY

CASE NO: 2006-CF-1071-K

STATE OF FLORIDA,

Plaintiff

Vs.

OMAR BROWN,

Defendant

ORDER DENYING MOTION TO COMPEL AND MOTION FOR NEW TRIAL

THIS MATTER came before the Court upon Defendant OMAR BROWN'S Motion to Compel and Motion for New Trial, and the Court, having considered the Motions, any response thereto, the argument of counsel, and all the facts and circumstances herein, hereby finds and Orders as follows:

1. The Motion to Compel is hereby DENIED.
2. The Motion for New Trial is hereby DENIED.

DONE and ORDERED at Key West, Monroe County, Florida, this 23rd day of November, 2010.



DAVID J. AUDLIN, JR.
CIRCUIT JUDGE

cc: Manuel Madruga, Esq., Chief Assistant State Attorney, via facsimile
Manuel E. Garcia, Esq., via facsimile

QUOTE ON THE ISSUE OF DEALING WITH
RAISING UP THE ISSUE OF THE PHOTO
DRIVER LICENSE AT MY FIRST TRIAL



LAW OFFICES OF THE
PUBLIC DEFENDER
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA
Bennett H. Brummer Building
1320 NW 14TH Street
Miami, Florida 33125

CARLOS J. MARTINEZ
PUBLIC DEFENDER

305.545.1961
www.pdmiami.com

May 14, 2012

Omar Ricardo Brown
K00574
Okeechobee Correctional Institution
3420 NE 168th Street
Okeechobee, FL 34972

LEGAL CONFIDENTIAL

RE: Case No. KW061071 Judge: David John Audlin, Jr. Appellate Court Case No. DCA:10-3264

Dear Mr. Brown:

I have just received your last letter and will do my best in this response to answer your questions and concerns. First, you are correct that the State filed its brief beyond the final deadline. However, asking the Third District to strike their brief would have been a bad idea. By accepting the late brief, the court *already* decided it would not strike it. If we asked them to strike the brief after it had already accepted it, they would have denied our motion and been annoyed that we wasted their time.

As to your questions regarding the issues that were not raised in the Initial Brief, I would direct you the letter I wrote you in September, 2011 explaining why some of those issues were not grounds for appeal and how you can raise them if you'd like in a post-conviction motion under rule 3.850. Further, as I have explained before, the motion to suppress issue is by far the strongest possible argument we could make, and it's most persuasive if the Brief puts all of the emphasis on it. It was possible to argue several other issues, but in my opinion it would not have helped get you any relief. Again, if by some chance we lose the appeal, you can raise whatever you want in a 3.850 motion.

In your letter, you raised a number of factual points about your case — either things I did not include in the brief or facts that the State got wrong in its brief. Please note that the appellate court will have read all the transcripts in the case. They are not relying on the briefs for the facts of the case. The judges have their own clerks who review the facts and write memoranda. The judges also read everything on their own. If I left out any particular details, or the State got anything wrong, the court is able to view the transcripts and resolve anything that is unclear. At oral argument, the court can also ask me about the facts of the case if it's confused about what happened at trial. The more difficult thing about a case like this one is getting the court to agree about how the law applies to the facts. In that regard, I think we are in very good shape.

At the oral argument, I can only guess what the court will want to talk about. But I think it's very likely that the issue will be the Fourth Amendment argument we raised in the brief. My total time to argue the case is only 10 minutes, so I'll have to focus on the best argument we have. You have now read the State's Answer Brief, and our Reply Brief to it. In my opinion, the State's brief was garbage and we should win because the law supports us. The only problem is that I don't know which judges will be hearing the case and what they will decide to do. The date for the oral argument will be announced any day now. You will be notified of it, along with every other development in your case.

*QUOTE ON THE ISSUE OF CLEANING WITH
RAISING UP THE ISSUE OF THE PHOTO
DRIVER EVIDENCE AT MY SECOND TRIAL*



LAW OFFICES OF THE
PUBLIC DEFENDER
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA
Bennett H. Brummer Building
1320 NW 14th Street
Miami, Florida 33125

CARLOS J. MARTINEZ
PUBLIC DEFENDER

305.545.1600
www.pdmiami.com

June 26, 2017

Omar Brown
K00574
Okeechobee Correctional Institution
3420 NE 168th Street
Okeechobee, FL 34972

CONFIDENTIAL LEGAL MAIL

Re: Case No. KW061071 Judge: Wayne M. Miller Appellate Court Case No.DCA:16-1914

Dear Mr. Brown:

I received your recent letter, and by now you should have received your attorney Mr. Kalter's response, wherein he again addresses the issues you wanted raised. Mr. Kalter researched all the issues and raised the only issue of merit in your case; he will not be amending your brief to raise additional issues because they are not supported by the law and have no merit.

In your letter you state that if your brief is not amended you want to stop your appeal. Your options with regard to that are as follows: 1) You may voluntarily dismiss your own appeal at any time, but if you do that you will be waiving your right to a single direct appeal, and you will not get another one. I do not advise you to do that because there is zero benefit to you in waiving your appeal, but it is your choice. Or, 2) if you are able, you may hire private substitute counsel, or 3) you may write to the appellate court and ask to represent yourself. The appellate court may in its discretion remand back to the trial court for a hearing on whether you may represent yourself on appeal. Another option you have is that if you are not successful in this direct appeal with Mr. Kalter representing you, you may raise the issue of ineffective assistance of appellate counsel (for failing to raise meritorious issues) at the conclusion of the appeal. Mr. Kalter will send you all the information on the latter remedy if the appeal is not successful.

Respectfully yours,

Maria E. Lauredo
Chief Assistant Public Defender

MXL/kbl

Third District Court of Appeal

State of Florida

Opinion filed April 10, 2019.


Not final until disposition of timely filed motion for rehearing.

No. 3D16-1914

No. 3D18-2226

Lower Tribunal No. 06-1071-A-K

*QUOTE POINTING TO THIS
IN DENYING MY MOTION*



Omar Brown,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Monroe County, Mark H. Jones, Judge.

Omar Brown, in proper person.

Ashley Moody, Attorney General, and Christina L. Dominguez, Assistant Attorney General, for appellee.

Before SALTER, and LINDSEY, JJ., and LEBAN, Senior Judge.

QUOTE THEY PERLUJIAN MY ISSUES ON MY BRIEF LIKE THEY AINT
PER CURIAM. *NOTING AND THOSE LIES HAVE BEEN LOSING ME MY FREEDOM*

Affirmed.

*FOR THE LAST 11 YEARS OF MY LIFE OF THE STATE LEAD DE MS. JIPANSHI
AND THE PAWN SHOP CLERK HEY ALSO FOR THE RECORD THEY SAID
I'V PAWNED SOME STOLIN EVIDENCE TO THE PAWN SHOP BUT I
WAS NEVER CHARGE OF DEALING IN STOLIN PROPERTY AM I RIGHT
OR WRONG*

Third District Court of Appeal

State of Florida

Opinion filed April 15, 2020.

Not final until disposition of timely filed motion for rehearing.

*QUOTE They keep denying
all my motions pointing
to things like this*

No: 3D16-1914

No. 3D19-2202

Lower Tribunal No. 06-1071-A-K

Omar Brown,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal under Florida Rule of Appellate Procedure 9.315(a) from the
Circuit Court for Monroe County, Mark H. Jones, Judge.

Omar Brown, in proper person.

Ashley Moody, Attorney General, for appellee.

Before SALTER, MILLER and LOBREE, JJ.

PER CURIAM.

Affirmed.

QUOTE ONLY THREE
WILL TELL

IN THE DISTRICT COURT OF APPEAL OF
THE STATE OF FLORIDA, THIRD DISTRICT

OMAR BROWN,
Appellant,

Case No.: 3D19-2202

v.

L.T. No.: 06-1071-A-K

STATE OF FLORIDA,
Appellee.

QUOTE WHEN YOU HAVE THE FACTS OF YOUR CASE
ON YOUR SIDE, ARGUE THE FACTS WHEN YOU
HAVE THE LAW ON YOUR SIDE, ARGUE THE LAW

MOTION FOR RECONSIDERATION

Comes now, the Appellant Brown, Omar Brown, *pro se* litigate and moves this Honorable Court to Fla. R. App. P. 9.330(a), and *Ayer v. State*, 775 So.2d 368 (Fla. 4th DCA 2000) function of a motion for rehearing is to call to Appellate Court's attention some point of law of fact that the court has overlooked or misapprehend.

In this direction, it would most certainly appear that this Honorable Court committed serious error or misapprehended the point of law and fact that the court has overlooked pursuant to this Court's decision set forth in Brown v. State, 152 So.3d 619 (Fla. 3rd DCA 2014) and Wongsun v. United States, 371 U.S. 473 83 S. Ct. 407 (1963), and Anglin v. Mayo, 88 So.2d 918 (Fla. 1956) and F.S. 79.01.

Appellant Brown will only point out his most strongest issues set forth in Ground Two and Grand Four of his Initial Brief pursuant to *Anglin*, concerning the extraordinary writ that the Appellant Brown is indeed being illegally detained in the department of corrections due to a Fourth Amendment violation and is deprived of life and liberty based on his due process violation.

Appellant Brown calls to the attention of this court for reconsideration that he is not rearguing any issue before the court but is only pointing out to the court logic and reasonableness in its misapprehension of the facts of the case in relation to this court's decision set forth in Brown v. State, 152 So.3d 619 (Fla. 3rd DCA 2014). This Honorable Court held that:

* "The police officer in case violated Appellant's Fourth Amendment rights when they unlawfully entered on to his property and entered his home and discovered items here and there that allegedly were related to criminal activity. Id. at 624-25".

* This court reversed Appellant's judgment and sentence and entered an order for the trial court to suppress the evidence. Id. at 626. This court also held that: Evidence seized during unlawful search cannot constitute proof against victim of search, and exclusionary prohibition extends to direct as well as to indirect products of such invasion. Id. There was no evidence to put Appellant Brown at the scene of the robbery. * No witnesses, * no fingerprints or * DNA evidence. The real perps was wearing masks and gloves. See Brown.

Now, the Appellant Brown calls to the attention of the court undisputed facts that this court erred and that a PCA or rubber stamp cannot support such conclusion in this case that will indeed constitute a manifested injustice if the error is not corrected as a matter of law pursuant to Brown, Wongsun, and the Fourth Amendment for the following reasons:

- * 1. This issue on appeal is truly based on this Court's decision set forth in Brown. *
2. Appellant Brown points out to the court pursuant to the search warrant and arrest warrant that was subsequently issued that are dependable on each other and consist of the same exact evidence. If this Court deemed the items set forth in the search warrant was illegally obtained in a Fourth Amendment violation that resulted from an unlawful invasion as decided in Brown. Since this court held in Brown that: "The exclusionary rule provides that evidence obtained directly or indirectly from a violation of the Fourth Amendment is not admissible against the accused." Id. Therefore, since the search warrant evidence was deemed inadmissible, then the arrest warrant evidence - identical items - should also have been deemed "fruit of an illegal arrest".
3. Appellant Brown's conviction is unconstitutional because it hangs in violation of a Fourth Amendment violation in this Court's decision set forth in Brown. Mainly

because the State retried Appellant Brown on tainted evidence deemed fruits from the poisonous tree in front of another judge after the suppression hearing ordered by this court. The second judge knew nothing of the case and tried Appellant Brown on the same exact evidence. In other words, this Court's order was also violated and Appellant Brown due process constitutional rights.

4. This Court either misapprehended the facts or overlooked them in its decision set forth in *Brown* as pointed out on motion on appeal. That the state and this Court has overlooked the fact of how Appellant Brown "identity" was discovered: Through an unlawful invasion simply because the police did not have probable cause to be there - "items here and there that allegedly were related to criminal activity." Id. at 624-25. Appellant Brown avers that had it not been for the unlawful invasion of his home, his "identity" would not have been discovered and yet no one could put him at the scene in neither trial. Therefore, since there was no evidence to put Appellant Brown at the robber and that his identity was discovered from "items here and there that allegedly was related to criminal activity" of an unlawful invasion of his home the state cannot retry him because his identity was discovered through an unlawful invasion and the fact the state ignores the fact that the police acquired Appellant Brown's identity illegally, and the state, who bears the burden, never introduced evidence that, without this knowledge, officer would have nonetheless discovered Appellant Brown as the perpetrator of the robbery when it had not a single piece of evidence.

5. This Court cannot sweep such an issue beneath the rug, it must be corrected and this court have jurisdiction to do so. For there is no evidence in this case due to the exclusionary rule. See *Wongsun* holding that:

The essence of a provision forbidding the acquisition of evidence in a certain way is that not merely evidence so acquired shall not be used at all. Of course this does not mean that the facts thus obtained becomes scarce and inaccessible. If knowledge of them is gained by the government's own wrong cannot be used by it in the way propose." 371 U.S. 473 83 S. Ct. at 416.

6. Appellant Brown avers that it will be in the best interests of justice that this Honorable reconsider its decision attached hereto in a case where there is no evidence against Appellant Brown based on its decision in Brown and the ^{*}state has not yet demonstrated its "harsh consequences of the fruit of the poisonousness tree doctrine three crucial exceptions".

This issue is indeed of great public importance to keep it from happening again. This Court upon reconsideration must issue a show cause order to the state in order to reach the truth of the injustice and unconstitutional retry and its subtle manipulation tactic to keep this court in the dark. For such a claim, as here, cannot in no wise, form, shape or fashion be conclusively refuted. There is no evidence. Undisputed fact. Furthermore, this Court has jurisdiction to put justice back on track or the ends of justice is defeated based on Brown.^{*}

Ground Two

The motion requiring a response from the State Attorney in relevant parts state:

Unless the motion files and records in the case conclusively show the defendant is entitled to no relief. The court shall order the State attorney to file, within the time fixed by the court, an answer to the motion: The answer shall respond to the allegations contained in the appellate sufficiently pleaded claims and address the merits of the issues.

^{*} Here, this Honorable Court has overlooked or misapprehended the facts and law where the record does not conclusively demonstrate that Omar Brown is the same person Mr. Faraz Ali identified during Pawn Shop transaction from the Florida Driver's License or whether Omar Brown and/or the Florida Driver's License exist at all and due to this sufficiently pleaded fact the trial court issued its order to show cause to the allegations contained in appellant's sufficiently pleaded motion. This was never done, via the court's procedural order. See Appendix (B) (Order To Show Cause / State Response).

This court has overlooked or misapprehended the facts of this case that is predicated on Mr. Faraz Ali and the person he I.D. from the driver's license of what was provided to him and the lead detective, Ms. Diane Lipinski's testimony that she have a photo copy of the defendant's driver license allegedly the person to be Omar Brown, the Appellant. That has never been produced even upon the juror's^{*}

* request Nor even a copy of the Appellant's Florida Correction I.D. with his picture.

This Honorable Court has overlooked or misapprehended that due process clause of the Fourteenth Amendment is violated when the state knowingly use false testimony to obtain a tainted conviction and it is of no consequence that the falsehood bare upon the witness credibility rather than directly upon the guilty. A * lie is a lie. No matter what it's subject and if it is in any way relevant to the case. The State Attorney's has the responsibility and duty to correct what he knows to be false and elicit the truth.

* Here, the State knew Mr. Faraz Ali, nor Ms. Diane Lipinski never had nor seen a photo copy of Mr. Omar Brown's driver license and still allowed the witnesses to falsely testify that one was provided to Mr. Faraz Ali and that Detective Lipinski have a photo copy of it. In appellant's first trial. *

Here in this case the motion is not conclusively resolved by the court record the instant rule provides relevant in part: If the denial is based on the record in this case a copy of that portion of the files and record that conclusively shows that the appellate is entitled to no relief shall be attach to the final order.

Here, this Honorable Court has overlooked or misapprehended the record attach by the trial court final summarily order as it does not conclusively show and/or attached documents bearing the name of Omar Brown nor a * physical Florida driver license or a * photo copy of a driver license produce bearing such name.

Whereas, without the state court not providing the appellate with the portion of the record of refuting his claims and without addressing the merits of these constitutional challenge appellate Brown will only point out two grounds to the court and yall let justice do the rest of the other two grounds in the appellate extraordinary writ of Habeas Corpus seeking IMMEDIATELY DISCHARGE * cause justice delayed is justice denied.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true and correct copy of the foregoing motion was placed in the hands of prison official for the purpose of prepaid U.S. mailing to Clerk of Court of the Third District, 2001 S. W. 117th Ave, Miami, FL, 33175-1716 on this day _____ day of _____ 2020.

Respectfully submitted,

Omar Brown, DC # K00574
Okeechobee Correctional Inst.
3420 N. E. 168th Street
Okeechobee, FL, 34972.

QUOTE A FINAL ORDER PRODUCED BY FRAUDULENT TESTIMONY AGAINST A DEFENDANT IN A CRIMINAL CASE IS DESERVING OF NO PROTECTION, AND COURT PROCESS REQUIRES THAT HE BE GIVEN EVERY OPPORTUNITY TO EXPOSE THE FRAUD AND OBTAIN RELIEF FROM IT.

QUOTE LOUSE WHEN YOU HAVE THE FACTS OF YOUR CASE ON YOUR SIDE, ARGUE THE FACTS. WHEN YOU HAVE THE LAW ON YOUR SIDE, ARGUE THE LAW.

LOUSE

JUSTICE DELAYED

IS

JUSTICE DENIED

6

and you don't think I
take this case personal (OO) ONLY TIME
I WILL TELL.