

**IN THE THIRTEENTH JUDICIAL CIRCUIT COURT,
HILLSBOROUGH COUNTY, STATE OF FLORIDA**

STATE OF FLORIDA

-versus-

Docket # 2015-CF-007383

ANTHONY J. CIRRUZZO,

Division C

Defendant.

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DEFENDANT'S MOTION FOR BOND PENDING APPEAL

PATRICK MICHAEL MEGARO, ESQ., an attorney duly admitted to practice law before the Courts of the State of Florida, hereby respectfully states as follows:

1. My firm has been retained to represent Anthony J. Ciruzzo in his direct appeal from a judgment of conviction entered against him in this Court on June 16, 2016.

2. This motion is made pursuant to Florida Statutes § 903.132, Rule 3.691 of the Florida Rules of Criminal Procedure, Rule 9.140(h) of the Florida Rules of Appellate Procedure, and Younghans v. State, 90 So.2d 308 (Fla. 1956).

3. For the reasons that follow, I respectfully request that this Court enter an order releasing Anthony J. Ciruzzo upon reasonable bail pending the conclusion of his direct appeal in the Second District Court of Appeal with such conditions that this Court may deem reasonable.

4. Florida Statutes § 903.132 sets forth the statutory criteria for bail pending appeal, which include (a) that the appeal is taken in good faith, (b) on grounds fairly debatable, and (c) is not frivolous.

5. The Florida Supreme Court has set forth several factors to be considered by a court in determining bail pending appeal, which are

- (1) the habits of the individual as to respect for the law,
- (2) his local attachments to the community, by way of family ties, business, or investments,
- (3) the severity of the punishment imposed for the offense, and
- (4) any other circumstances relevant to the question of whether the person would be tempted to remove himself from the jurisdiction of the court.

Younghans v. State, 90 So.2d 308, 310 (Fla. 1956).

A. The Appeal is Taken in Good Faith, Upon Grounds Fairly Debatable, and Is Not Frivolous

6. Defendant is filing a Notice of Appeal concurrently with this motion and has taken affirmative steps to prosecute his appeal to the Second District Court of Appeal, including retaining counsel specifically for this purpose, ordering the transcripts, gathering court records and reviewing the same to designate the Record on Appeal, and has already conducted research into several issues to the raised in appeal.

7. The issues anticipated to be raised in this appeal are (a) whether the evidence was sufficient to sustain the conviction and whether a motion for judgment of acquittal should have been granted, (b) the propriety of the court's responses to the questions submitted by the jury and the court's final instructions to the jury, (c) whether Defendant was denied due process of law based upon improper comments made by the prosecutor during opening statements and summation.

8. The following grounds for the appeal concern weighty issues of Constitutional dimension that are debatable and if successful, will result in reversal and dismissal of the charges, or a reversal and a new trial. These issues are not frivolous.

*B. The Defendant Has a Respect for the Law As Evidenced By
His History of Honoring Court Obligations and Lack of Extensive Criminal Record*

9. On May 22, 2015, Defendant was arrested and bail was set in the amount of \$3,000.00 by this Court. On the same day, Defendant posted a surety bond. Thereafter, he faithfully made all court appearances as required, and attended his trial. After his trial, which ended in a guilty verdict, he remained at liberty until his sentencing, two months after the verdict. If he was inclined to flee this Court's jurisdiction, he had more than ample opportunity, especially after the verdict. However, he continued to honor his obligations with the knowledge that he faced up to five years imprisonment as a result of his conviction.

C. Defendant Has Significant Ties to the Community

10. Defendant is a resident of New Port Richey and Tampa, owning homes in each city. He has been a resident of the greater Tampa area since 1989. Defendant's entire family lives in Tampa; Defendant's mother is almost 90 years of age, and Defendant lives with her half of the week in New Port Richey to care for them. Defendant's wife and her parents also reside in Tampa.

11. Defendant has one daughter, aged 32, who is married and also resides in Tampa.

12. Prior to his incarceration, Defendant was the president of a small company which employed his daughter and 7 other employees full-time. The company was based in Tampa as well. Defendant's daughter is running the company at the present time.

D. The Sentence Imposed Is Not Severe

13. Defendant was sentenced to 6 months jail plus 3 years of probation. Should he be released upon bail, there is less motivation for him to flee than if he were sentenced to a state prison sentence.

E. The Defendant is Not a Flight Risk or Danger to the Community

14. Anthony J. Ciruzzo was convicted of convicted of Florida Statutes § 817.505(1)(a), Patient Brokering, a Third Degree Felony, a non-drug, non-violent offense.

15. As set forth above, Defendant has very strong ties to the community, making him less of a flight risk.

16. Defendant is not a drug user, has no history of mental illness, or any history of violent tendencies. Accordingly, it is clear that he is not a danger to the community.

17. Other than three prior misdemeanor convictions for Driving While Under the Influence, Refusal to Submit to a Chemical Test, and Reckless Driving, Defendant has no prior convictions. Defendant made all of his court appearances on the foregoing cases, the last of which occurred in 2009, and has no prior failures to appear.

CONCLUSION

18. Defendant's wife, daughter, son-in-law, and his in-laws are all employed and are property owners in Hillsborough County. They have pledged to support the Defendant and post substantial bond in the event this Court grants bail pending appeal, and will ensure the Defendant will honor the conditions of bond.

19. Defendant certifies pursuant to Rule 3.691(d) that should he be released upon bail pending appeal, he will duly prosecute his appeal, and will surrender himself in the event the

judgment of conviction is affirmed or modified, or the appeal dismissed, and if the appeal results in a reversal, he will appear in this Court and submit to all orders and processes of the Court. He further certifies he will not leave the jurisdiction without permission from the Court.

WHEREFORE, the Defendant respectfully requests this Court grant the instant motion, and fix bail in a reasonable amount, and impose any necessary, appropriate, and reasonable conditions upon his release, and grant such other and further relief as this Court may deem just and proper.

Dated: June 27, 2016

Respectfully Submitted,

/s/ Patrick Michael Megaro

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served on June 27, 2016 upon ASA Michael Robert Lennon, Office of the State Attorney, via e-portal/electronic filing/electronic service

Dated: June 27, 2016

/s/ Patrick Michael Megaro

Patrick Michael Megaro, Esq.