

**IN THE NINTH JUDICIAL CIRCUIT COURT,  
OSCEOLA COUNTY, STATE OF FLORIDA**

**THE STATE OF FLORIDA,**

**-versus-**

**LUCAS BARTHOLOMEW CLARKE,**

**Docket # 2012-CF-000289**

**Defendant.**

\_\_\_\_\_ /

**MOTION TO SET AND/OR REDUCE BOND**

COMES NOW Defendant, LUCAS BARTHOLOMEW CLARKE, by and through undersigned counsel and pursuant to Rule 3.131, Florida Rules of Criminal Procedure, the Eighth Amendment to the United States Constitution, and Article I of the Florida Constitution, hereby requests this Court to set and/or reduce Defendant's bond. As grounds therefor, Defendant states as follows:

1. On May 16, 2018, Defendant travelled from Pennsylvania and voluntarily surrendered to the authorities at the Osceola County jail pursuant to a "no bond" warrant signed by a Judge of this Court.

2. Prior to that date, the Defendant had been arrested in Mercer County, Pennsylvania pursuant to a fugitive warrant as a result of the warrant issued on the instant case. He was released upon a \$25,000.00 bond by the Mercer County court, and directed to report to this Court to surrender upon the warrant by May 16, 2018. He has followed that court's directive to the letter.

3. Defendant stands convicted in this Court of Use of a Two-Way Communication Device to Facilitate a Felony in violation of Florida Statutes § 934.215, a third degree felony.

4. Defendant has no prior convictions and is 25 years old. The instant offense was committed when he was 19 years old. Since the inception of this case, he has had no new convictions.

5. Defendant has remained gainfully employed in various capacities, and currently operates his own T-shirt wholesale and retail business. He has previously been evaluated by a licensed mental health professional for risk of recidivism, and has been determined to be in the lowest risk category possible. He has no substance abuse or mental health issues. **(Exhibit A).**

6. Defendant has strong ties to his community, lives with his girlfriend, and has extended family in Mercer County, Pennsylvania. He has a very strong relationship with his father, a graduate of the United States Military Academy at West Point and a retired officer in the United States Army, and enjoys a strong bond with his mother as well. Recently, Mr. Clarke suffered the loss of both of his grandfathers. Their obituaries are attached. **(Exhibit B).** In addition, he has been involved with his church and his community. Two letters of recommendation are attached hereto. **(Exhibit C).**

7. The most recent Criminal Punishment Code Scoresheet, dated April 25, 2016, computes a total of 28 total sentence points. He does not score to a state prison term. **(Exhibit D).**

8. This Court is required under applicable Rules to provide a meaningful first appearance, which includes conducting a hearing on Defendant's right to pretrial release under Florida Rule of Criminal Procedure 3.131, the Eighth Amendment to the United States Constitution, the Florida Constitution and other statutes and rules of procedure.

9. Rule 3.130(a) requires that an accused be afforded a first appearance before a judicial officer within twenty-four hours of arrest. The judge shall, at the Defendant's first appearance, consider all available factors to determine what form of release is necessary to assure the defendant's appearance. If a monetary bail is required, the judge shall determine the amount. Fla. R. Crim. P. 3.131(b)(2).

10. The Florida Supreme Court has held that "[t]he endorsement of bail on the arrest warrant is an ex parte proceeding done for the purpose of allowing the arrested person to post bail without the necessity of waiting until first appearance, which must occur within twenty-four hours of arrest. This procedure is not intended as a substitute for either the arrested person's appearance before the first appearance or the opportunity to present reasons for other forms of release as expressly provided by Rule 3.131(b)(2). Nor is the endorsement of a bail amount on the arrest warrant intended to limit the first appearance judge's discretion in applying Rule 3.131(b)(2). State v. Norris, 768 So. 2d 1070 (Fla. 2000).

11. No motion seeking pretrial detention has been filed in the instant case by the State of Florida.

12. When determining whether to release a defendant on bail or other conditions, and what the bail or other conditions may be, the Court shall consider: (a) the nature and circumstances of the offense charged; (b) the weight of the evidence against the defendant; (c) the defendant's family ties, his length of residence in the community, his employment history, his financial resources, and his mental condition; (d) the defendant's past and present conduct, including prior convictions, previous flight to avoid prosecution, or failure to appear at previous court proceedings; (e) the nature and probability of danger which release would pose to the

community; (f) the source of funds used to post bail; (g) whether the defendant is already on release pending resolution of another criminal proceeding, or on probation, parole, or other release pending completion of sentence; (h) the nature and probability of danger and intimidation to victims; (i) any other facts the court considers relevant. Florida Statutes § 903.046(2).

13. There is a presumption in favor of release on non-monetary conditions for any person who is granted pre-trial release. The judicial officer shall impose the first of the following conditions of release which will reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process; or, if no single condition gives that assurance, any combination of the following: (a) personal recognizance; (b) execution of an unsecured appearance bond in an amount specified by the judge; (c) placing restrictions on travel, association, or place of abode of the defendant during the period of release; (d) placing defendant in custody of a designated person or organization agreeing to supervise him; (e) requiring the execution of a bail bond with sufficient and solvent sureties; (f) imposing any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring the person to return to custody after specified hours. Fla. R. Crim. P. 3.131(b).

14. The crimes charged in the present case are not enumerated as “dangerous crimes” pursuant to Florida Statutes § 907.041(4)(a).

15. There is a presumption in favor of release on non-monetary conditions for any person who is granted pretrial release unless such person is charged with a dangerous crime. A person shall be released on monetary conditions if it is determined that such monetary conditions are necessary to assure the presence of the person at trial or other proceedings, to protect the

community from risk of physical harm to persons, to assure the presence of the accused at trial, or to assure the integrity of the judicial process. Florida Statutes § 907.041(3).

16. There is no reason to believe that Defendant poses a danger to the community. As such, there is a presumption in favor that Defendant should be released on his own recognizance without the need to post any financial bond. To that end, certain conditions can be set by this Court to ensure Defendant's appearance at any required court dates and to ensure the safety of the community.

17. In the alternative, Defendant respectfully requests this Court set reasonable bail in order to secure his appearance.

WHEREFORE, Defendant respectfully requests that this Court grant the instant Motion and order Defendant released on his own recognizance, or in the alternative, be released upon reasonable bail.

Dated: Orlando, Florida  
May 17, 2018

Respectfully Submitted,

*/s/ Patrick Michael Megaro, Esq.*

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on May 17, 2018 upon the parties listed below via electronic filing/e-service and via electronic mail:

ASA Leah Glisson, Esq.  
Osceola County State Attorney's Office  
2 Courthouse Square  
Kissimmee, Florida 34741

/s/ Patrick Michael Megaro, Esq.  
Patrick Michael Megaro, Esq.