

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, STATE OF FLORIDA  
CRIMINAL DIVISION

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STATE OF FLORIDA,

Plaintiff,

vs.

CASE NO. CRC07-12964CFANO

BRIAN N. PITTS,

UCN: 522007CF012964XXXXNO

Defendant.

BEFORE: THE HONORABLE CHRIS HELINGER  
Circuit Judge

PROCEEDINGS: Pretrial

DATE: May 12, 2009

TIME: Commencing at 8:30 a.m.

PLACE: Courtroom 4/I  
Criminal Justice Center  
14250 49<sup>th</sup> Street North  
Clearwater, Florida

TRANSCRIBED BY: Tracy Regulski  
Digital Court Reporter

(Pages 1 - 17)

**ORIGINAL**

*Office of Digital Court Reporters  
Criminal Justice Center  
14250 49<sup>th</sup> Street North  
Clearwater, Florida 33762  
(727) 453-7474*

## A P P E A R A N C E S

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**Holly T. Grissinger, Esquire**  
Office of the State Attorney  
14250 49<sup>th</sup> Street North, Room 1000  
Clearwater, Florida 33762  
Counsel for the State

**Dwight Moore Wolfe, Esquire**  
Public Defender's Office  
14250 49<sup>th</sup> Street North, Room 1000  
Clearwater, Florida 33762  
Counsel for the Defendant

I N D E X

1		
2		<u>Page</u>
3	Proceedings .....	4
4	Court Reporter Certificate .....	17
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
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## P R O C E E D I N G S

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MR. WOLFE: May we approach, Judge?

THE COURT: Sure.

(A sidebar was held on the record.)

MR. WOLFE: Judge, the -- if you would put pressure on the State. They are being very unreasonable. One of the requests Mr. Pitts has made to enter a plea is the State Attorney's Office used their influence and power to help him become admitted to the Florida Bar and they refuse to even negotiate that decision. Is there anything you could do to put pressure on them?

THE COURT: I won't say anything, but I (indiscernible) a comment.

MR. WOLFE: I think we're getting pretty close to a plea.

THE COURT: Are they offering him a misdemeanor?

MR. WOLFE: I am. Withhold of adjudication, a year, paper.

THE COURT: I would be shocked if he pled. Shocked.

MR. WOLFE: Well, I'm working on it.

THE COURT: You would be a miracle man.

MR. WOLFE: Well, there's people in my office that who have bets with me so I have a lot riding on this.

THE COURT: I would love to bet if I could.

1 MR. WOLFE: Plead no contest, reserving the right  
2 to appeal, although his big issue is double jeopardy,  
3 which I don't think we're going to plead no contest. I  
4 think you can raise that anytime, even on -- even  
5 without having not been raised on the direct -- on the  
6 trial level, but that makes him feel uncomfortable. And  
7 I don't know if you want to recognize a Supreme Court  
8 decision, but somehow in the plea incorporate that he  
9 can conduct any activities consistent with this  
10 particular Supreme Court ruling, which has his name on  
11 it. And I told him I said, a trial court can't tell you  
12 that you can't --

13 THE COURT: Right.

14 MR. WOLFE: -- do stuff the Supreme Court told you  
15 you could do, but he wants -- if you could just  
16 reference the case number and say, Supreme Court's ruled  
17 in case number whatever it is and whatever contact is --  
18 or activity is allowed by the Supreme Court.

19 THE COURT: I can't do that.

20 MR. WOLFE: I mean, not even --

21 THE COURT: Because on the transcripts, it would be  
22 attached to all of the upcoming litigation. I can't do  
23 that.

24 MR. WOLFE: I mean, but the rest of them --

25 THE COURT: I am going to be a witness in all of

1 the future cases.

2 MR. WOLFE: Withhold, a year, and no contest; those  
3 are okay?

4 THE COURT: I -- whatever the State wants. Yes.

5 MS. GRISSINGER: I -- this is -- the State had  
6 given him that offer and he rejected that offer, so the  
7 State's position is that, you know, we feel that at this  
8 point he needs an adjudication. Based on the two priors  
9 and I have been instructed to ask for the Department of  
10 Corrections time. But he has no prior felonies and  
11 he --

12 THE COURT: So this is the pretrial, right? It's  
13 not the trial date --

14 MS. GRISSINGER: He scores nonstate.

15 MR. WOLFE: Right. Right.

16 MS. GRISSINGER: Yes. This is pretrial.

17 THE COURT: -- so it wouldn't be a violation of the  
18 policy.

19 MS. GRISSINGER: Right. That's why it's a pretrial  
20 today.

21 THE COURT: Okay. A withhold, one year of  
22 probation, that's what you're offering?

23 MR. WOLFE: I'm asking -- yeah.

24 THE COURT: Are there any conditions that you would  
25 request?

1 MR. WOLFE: He can't practice --

2 MS. GRISSINGER: Practice law.

3 MR. WOLFE: -- law without -- I mean, he can do  
4 whatever the statute should --

5 MS. GRISSINGER: And then there are costs.

6 THE COURT: Okay.

7 MR. WOLFE: The Supreme Court allows him to do it.

8 MR. HILLIARD: I will be shocked if this plea goes  
9 through. How long do you think it will take to get the  
10 plea?

11 MR. WOLFE: I'm still looking --

12 THE COURT: The end of the day?

13 MR. WOLFE: Six to seven hours away from getting to  
14 the podium. Once I get to the podium it's a done deal,  
15 I think.

16 THE COURT: Okay.

17 MS. GRISSINGER: If you were going to do probation,  
18 we would ask for at least 18 months, only because he  
19 already did 12; at least give him something more this  
20 time around. That's Your Honor's decision, but --

21 THE COURT: I'll take the year.

22 MR. WOLFE: Yeah, with a return in six months if we  
23 make it that far? If we make it six months we're --

24 THE COURT: Uh-huh.

25 MR. WOLFE: -- you know.

1 (In open Court.)

2 (The case was passed and recalled later.)

3 Is Mr. Pitts ready, Mr. Wolfe?

4 MR. WOLFE: Yes, Judge. We can get him out here.

5 Judge, I want to put a couple of things --

6 THE COURT: Good morning, Mr. Pitts.

7 THE DEFENDANT: Good morning, Your Honor.

8 MR. WOLFE: I want to put a couple of things on the  
9 record. Yeah, you can sign right there, please.

10 Usually when people hear the term unlicensed  
11 practice of the law, they that somebody lined their  
12 pockets, charging people money and pass themselves off  
13 as a lawyer. Judge, I don't think the State is going to  
14 disagree with me on this.

15 In this case, all of the actions that Mr. Pitts  
16 take, he didn't take one penny from one person or really  
17 have any goal to benefit financially himself. Basically  
18 he was trying to help people out that he thought needed  
19 help that didn't have money to hire a lawyer and he  
20 wanted to help them.

21 Judge, we would like to resolve the case with a  
22 withhold of adjudication, one year probation, with the  
23 understanding that if everything is done well by the  
24 six-month mark including getting all of the court costs  
25 and the fines and so forth that he can come in and ask



1 for a termination, that he can reserve the right --  
2 there were a number of pretrial motions signed -- or  
3 filed by Mr. Pitts and argued by Mr. Pitts in front of  
4 this Court that he had had the right to appeal those  
5 before the Second DCA takes search of the Supreme Court  
6 if he lost the Second DCA, that he can engage in any  
7 activities permitted by the Supreme Court, permitted by  
8 the statutes. And Judge, I am going to refer it if you  
9 allow me the Supreme Court case of the Florida Bar  
10 versus Brian Pitts. It was decided by the Supreme Court  
11 November 6, 2003. It's -- I don't have a cite, but I've  
12 got the case number, 02-247, in which they outlined for  
13 Mr. Pitts those things that were restricted from him and  
14 those things that were permitted. He is going to use  
15 that as his guide to direct the guys he met with what to  
16 do and what not to do because there are some specific  
17 things the Supreme Court has said here. Mr. Pitts, you  
18 can't do this until and unless you are a member of the  
19 Florida Bar.

20 Judge, if you accept a no contest, with reserving  
21 the right to appeal, we would like, you know, that  
22 disposition you feel is appropriate.

23 THE COURT: Okay. Mr. Pitts, raise your right  
24 hand, sir.

25 (The defendant was duly sworn by the Court.)

1 THE COURT: Are you withdrawing your previously  
2 entered not guilty plea?

3 THE DEFENDANT: Yes.

4 THE COURT: Are you entering a no contest plea?

5 THE DEFENDANT: Yes.

6 THE COURT: Are you satisfied with the services of  
7 Mr. Wolfe as your lawyer?

8 THE DEFENDANT: Okay. Yes.

9 THE COURT: Pardon me?

10 THE DEFENDANT: Yes.

11 THE COURT: Okay. Are you under the influence  
12 today of alcohol, drugs, or prescribed medication?

13 THE DEFENDANT: No.

14 THE COURT: Do you suffer from any mental illness?

15 THE DEFENDANT: Not now.

16 THE COURT: How far did you go in school?

17 THE DEFENDANT: 12<sup>th</sup> grade.

18 THE COURT: Have you read over the plea form?

19 THE DEFENDANT: Yes, indeed.

20 THE COURT: Are there any rights on that plea form  
21 that you are giving up that you don't understand?

22 THE DEFENDANT: No. I understand.

23 THE COURT: Okay. You understand you are giving up  
24 your right to trial.

25 THE DEFENDANT: I understand.

1 THE COURT: Giving up your right to cross-examine  
2 witnesses.

3 THE DEFENDANT: I understand.

4 THE COURT: Giving up your right to testify.

5 THE DEFENDANT: I understand.

6 THE COURT: Giving up your right to subpoena  
7 witnesses for you to court.

8 THE DEFENDANT: Okay. I understand.

9 THE COURT: Okay. And giving up your right to  
10 appeal the jury's verdict if it was adverse to you?

11 THE DEFENDANT: I understand. Yes.

12 THE COURT: Are you entering this plea freely,  
13 knowingly, and voluntarily?

14 THE DEFENDANT: Yes.

15 THE COURT: Anyone forcing you or coercing you?

16 THE DEFENDANT: I could -- no, no. Fine.

17 THE COURT: Okay. Has anyone promised you any  
18 other result other than I am going to give you a  
19 withhold of adjudication and a year of probation?

20 THE DEFENDANT: Okay. No. I understand that to be  
21 the case, yes.

22 THE COURT: Do you understand about the court costs  
23 that you have to pay?

24 THE DEFENDANT: As a whole, no. I was -- not the  
25 whole figure. So I need you to --

1 THE COURT: Okay. Well it's 550 court costs, 50 PD  
2 application fee, \$100 costs of prosecution and \$100  
3 attorney's fees. You've got to pay all of those before  
4 I would termination your probation and you've got to pay  
5 them all during the term of your probation.

6 THE DEFENDANT: So how much is that actually?

7 THE COURT: Six -- \$800.

8 THE DEFENDANT: As a whole.

9 MR. WOLFE: It is more actually about 700 here.

10 THE DEFENDANT: Okay. That's as a whole. Okay. I  
11 understand that. Okay.

12 THE COURT: Okay. Are you agreeing to that?

13 THE DEFENDANT: Unfortunately, yes.

14 THE COURT: Okay. Do you have any prior sex  
15 offenses?

16 THE DEFENDANT: Oh, no. Please, no.

17 THE COURT: Are you a United States citizen?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you understand if you were not a  
20 United States citizen you could be deported as a result  
21 of your plea?

22 THE DEFENDANT: Okay. Yes, I understand that.

23 THE COURT: Ms. Grissinger, do you know of any DNA  
24 that could exonerate Mr. Pitts?

25 MS. GRISSINGER: No, Judge.

1 THE COURT: Do you know of any DNA that could  
2 exonerate Mr. Pitts, Mr. Wolfe?

3 MR. WOLFE: There are none -- there is none, Judge.

4 THE COURT: All right. Factual basis?

5 MS. GRISSINGER: Judge, this offense occurred on or  
6 between January of '06 and January of '07, the defendant  
7 did engage in the unlicensed practice of law in Pinellas  
8 County, Florida. He represented himself as an attorney,  
9 in fact, for Calvester Benjamin (phonetic) Anderson and  
10 also her designated representative in charge of  
11 discrimination -- in her charge of discrimination  
12 against Manhattan Beauty School. The defendant  
13 submitted a document entitled *Designation of Durable*  
14 *Power of Attorney* coupled with an interest to Brian  
15 Pitts as attorney in fact. The defendant had been  
16 previously prosecuted by this office and convicted in  
17 2003. The Florida Bar has permanently enjoined the  
18 defendant from engaging in the unlicensed practice of  
19 law as of November '03 including his ability to file the  
20 designation of durable power of attorney.

21 THE COURT: Okay. I'll find there is a factual  
22 basis. You have been represented by able trial counsel  
23 with whom you say you are satisfied. Your plea has been  
24 freely, knowingly, and voluntarily entered.

25 I'll withhold adjudication, sentence you to one

1 year of probation. A condition is you have to pay those  
2 \$800 court costs which I have just itemized on the  
3 record. If you pay those off after six months you can  
4 come in and ask for an early termination and as long as  
5 there haven't been any problems or issues I would do  
6 that. Do you understand?

7 THE DEFENDANT: Yes. I'd have it correct.

8 THE COURT: Okay. Thirty days to appeal. If you  
9 could not afford a lawyer, one would be appointed for  
10 you.

11 MR. WOLFE: Judge, would you review solvency for  
12 possible appointment of our office to process the appeal  
13 for him?

14 THE COURT: Okay. Mr. Pitts, do you have any money  
15 to hire a lawyer?

16 THE DEFENDANT: Not right now, ma'am.

17 THE COURT: Okay. Are you employed?

18 THE DEFENDANT: Not really. I mean --

19 THE COURT: Well you either are or you're not.

20 THE DEFENDANT: It's very -- it's commission  
21 driven. It really is, so.

22 THE COURT: Well, if I can't complete a solvency, I  
23 can't appoint the PD. You don't have to participate in  
24 this if you don't want to. But if you want me to make  
25 inquiry for purposes of an appointment of an appellate

1 lawyer, you have to answer those questions.

2 MR. WOLFE: How much on an average a month do you  
3 usually make, average month?

4 THE DEFENDANT: Make me -- excuse me -- I can --  
5 it's very low, you know. I think at best a lot of times  
6 it would be like 300 most of the time.

7 THE COURT: Three-hundred a month on commission?

8 THE DEFENDANT: Yeah.

9 THE COURT: Where do you work?

10 THE DEFENDANT: It's -- it's political entity.

11 THE COURT: What is it?

12 THE DEFENDANT: It a PAC, what you call a political  
13 committee. So again, I have to be very cautious how  
14 those would be used.

15 THE COURT: Okay. Well you get a check form a  
16 political committee to pay you for services?

17 THE DEFENDANT: Yes. Yes. And it must be to that,  
18 so I cannot just splurge with it. It has to be for that  
19 very issue and those expenses.

20 THE COURT: Okay. The name of the committee is  
21 pact, p-a-c-t (sic)?

22 THE DEFENDANT: No the name of the committee is  
23 Justice-2-Jesus. It's registered with the Division of  
24 Elections.

25 THE COURT: Okay. And then how much does this

1 Justice-2-Jesus pay you a month?

2 THE DEFENDANT: Okay. That's what I'm saying.  
3 Three-hundred I'm limited at because of election code  
4 guidelines.

5 THE COURT: Okay.

6 THE DEFENDANT: So the rest is expenses. I have to  
7 -- I have to be careful on that because that ends up  
8 being another criminal issue because pac's are under  
9 severe guidelines.

10 THE COURT: Do you have any assets you could sell  
11 to hire a lawyer?

12 THE DEFENDANT: No. No assets at all right now.

13 THE COURT: And how do you support yourself other  
14 than the \$300 a month in commissions?

15 THE DEFENDANT: That's friends that I see priorly  
16 -- in the beginning when I was doing so many things  
17 myself. Sometimes they contribute or help out when the  
18 money gets tight.

19 THE COURT: All right. I'll appoint the Public  
20 Defender's Offices for purposes of appeal.

21 MR. WOLFE: Thank you, Judge.

22 THE COURT: Thank you, sir.

23 (The proceedings were concluded.)

24 \* \* \* \* \*

25



CERTIFICATE OF COURT REPORTER

STATE OF FLORIDA

COUNTY OF PINELLAS

I, Tracy Regulski, a digital court reporter for the Sixth Judicial Circuit, do hereby certify that I was authorized to and did transcribe the foregoing proceedings and that the transcript is a true and correct record of said proceedings.

DATED this 23<sup>rd</sup> day of June, 2009.

*Tracy Regulski*

Tracy Regulski  
Digital Court Reporter  
Sixth Judicial Circuit



STATE OF FLORIDA - PINELLAS COUNTY

I hereby certify that the foregoing is a true copy as the same appears among the files and records of this court.

This 22<sup>nd</sup> day of July, 2009

KEN BURKE  
Clerk of Circuit Court

By: *Dennis M. Sorenson*  
Deputy Clerk