

STATE VS. CELONA

SENTENCING

FEBRUARY 20, 2007

THIS MATTER IS BEFORE THE COURT FOR ACCEPTANCE OF DEFENDANT'S PLEA OF NOLO CONTENDERE AND FOR IMPOSITION OF SENTENCE.

PRIOR TO IMPOSING THIS SENTENCE, THE COURT BELIEVES A BRIEF EXPLANATION IS APPROPRIATE AS TO HOW THIS SENTENCE WAS FORMULATED.

AS THE STATE REFERENCES IN ITS SENTENCING MEMORANDUM, THE ATTORNEY GENERAL'S OFFICE AND STATE POLICE BEGAN AN INVESTIGATION IN DECEMBER, 2003 WHICH LATER CULMINATED IN THE INDICTMENT BEFORE THE COURT. THESE CHARGES ARE SEPARATE AND DISTINCT FROM THE FEDERAL CHARGES SUBSEQUENTLY FILED AGAINST

DEFENDANT TO WHICH HE HAS RECENTLY PLED AND BEEN SENTENCED. AND WHILE SOME MAY COMPARE THESE SENTENCES, THE COURT SEES NO LINKAGE FOR SENTENCING PURPOSES BETWEEN THE FEDERAL AND STATE CASES. THE CHARGES ASSOCIATED WITH EACH CASE STAND SEPARATE AND DISTINCT FROM EACH OTHER.

THIS COURT RESPECTS THE FEDERAL COURT'S AUTHORITY AND THE PROSECUTORIAL RESPONSIBILITY OF THE UNITED STATE ATTORNEY'S OFFICE. THE COURT LIKEWISE IS CHARGED WITH CARRYING OUT THE STATE SUPERIOR COURT'S CRIMINAL JURISDICTION OVER THIS MATTER, AND RESPECTS THE PROSECUTORIAL RESPONSIBILITY OF THE DEPARTMENT OF THE ATTORNEY GENERAL IN THIS CASE.

THIS COURT RECOGNIZES THAT THERE IS NO MORE DIFFICULT DUTY OR AWESOME RESPONSIBILITY THAN THE PRONOUNCEMENT OF SENTENCE IN A CRIMINAL CASE. IN DECIDING SENTENCING ISSUES, JUDGES MUST LOOK TO THE LAW AND THEIR CONSCIENCE. I HAVE SEARCHED BOTH IN DETERMINING THE APPROPRIATE SENTENCE IN THIS CASE.

THE COURT HAS REVIEWED THE SENTENCING BENCHMARK FOR THE OFFENSE INVOLVED. THE BENCHMARK RECOMMENDS A LESS THAN JAIL SENTENCE FOR A FIRST OFFENDER. THIS COURT ACKNOWLEDGES THAT THE SENTENCE IN THIS CASE SIGNIFICANTLY EXCEEDS THAT GUIDELINE. THE COURT, HOWEVER, IS COGNIZANT THAT THE SUPERIOR COURT BENCHMARKS ARE ADVISORY AND

NON-BINDING IN NATURE AND MAY BE DEPARTED FROM IN APPROPRIATE CIRCUMSTANCES. THE COURT IS ALSO AWARE OF THE RHODE ISLAND SUPREME COURT'S APPROVAL OF "EXAMPLE TYPE" SENTENCING. IN CONSIDERING THE THREE SENTENCING OBJECTIVES OF PUNISHMENT, REHABILITATION AND DETERRENCE, OUR SUPREME COURT HAS STATED THAT THE ELEMENT OF DETERRENCE AT TIMES DEMANDS "EXAMPLE TYPE SENTENCING."

THIS COURT WOULD NOT ACCEPT OR IMPOSE A SENTENCE THAT IGNORES THE MAGNITUDE OF THE DEFENDANT'S BREACH OF TRUST TO ALL WHO RESIDE IN RHODE ISLAND. THE NEED TO STRONGLY DETER SUCH CONDUCT IN THE OPERATION OF OUR GOVERNMENT IS SELF-EVIDENT.

DURING THE PERIOD ENCOMPASSED BY THIS OFFENSE, THE DEFENDANT WAS A "STATE" SENATOR. THE TITLE "SENATOR" IS ONE OF HONOR AND DISTINCTION. THOSE WHO HOLD THIS POSITION, AND ALL ELECTED OFFICIALS, ARE CARETAKERS OF OUR STATE. AS FORMER UNITED STATES SUPREME COURT JUSTICE LOUIS BRANDEIS APTLY OBSERVED NEARLY 80 YEARS AGO, "DECENCY, SECURITY AND LIBERTY ALIKE DEMAND THAT GOVERNMENT OFFICIALS SHALL BE SUBJECTED TO THE SAME RULES OF CONDUCT THAT ARE COMMANDS TO THE CITIZENS. IN A GOVERNMENT OF LAWS, EXISTENCE OF THE GOVERNMENT WILL BE IMPERILED IF IT FAILS TO OBSERVE THE LAW SCRUPULOUSLY." THOUGH ELECTED BY THE VOTERS OF ONE SENATORIAL DISTRICT, THE DEFENDANT OWED A DUTY OF

LOYALTY AND TRUST TO EACH AND EVERY MAN, WOMAN AND CHILD IN THIS STATE – 1,076,189 TO BE EXACT.

THE DEFENDANT'S SENTENCE, WHICH INCLUDES A SIGNIFICANT PERIOD OF INCARCERATION, IS JUSTIFIED BY THE UNIQUE AND UNFORTUNATE CIRCUMSTANCES OF THIS CASE. THIS IS NOT A CASE OF ONE INSTANCE OF FRAUD OR DECEIT BETWEEN MR. CELONA AND ONE UNSUSPECTING VICTIM. RATHER, THE IMPACT OF THIS OFFENSE IS STATEWIDE; IT UNDERMINES THE CONFIDENCE CITIZENS SHOULD HAVE IN THE OPERATION OF THEIR STATE GOVERNMENT; AND ULTIMATELY, IT ERODES THE QUALITY OF LIFE IN OUR STATE.

FOR ALL THESE REASONS, A SIGNIFICANT JAIL SENTENCE IS WARRANTED.



REQUEST TO ENTER PLEA OF NOLO CONTENDERE OR GUILTY SUPERIOR COURT

1. STATE OF RHODE ISLAND VS. John Celona	2. CASE NO. P1/05-1111A
3. CHARGES Count 1. Obtaining money under false pretenses in excess of \$50000 Count 2. Ethics violation	4. PENALTY 10 years SD 1 year ACI

I, the above named defendant, do hereby request Court permission to withdraw my present plea of Not Guilty and to enter a plea of Nolo Contendere or Guilty. I understand the plea of Nolo Contendere is for all purposes the same as a plea of Guilty and that I will be admitting sufficient facts to substantiate the charge(s) which has (have) been brought against me in the case to which this plea relates. I understand by changing my plea I will be giving up and waiving each and all of my rights as follows:

1. My right to a trial by jury or by a Judge, sitting without a jury, and my right to appeal to the Supreme Court from any verdict or finding of guilt.
2. My right to have the State prove each and every element of the charge(s) against me by evidence and proof beyond a reasonable doubt.
3. My right to the presumption of innocence.
4. My privilege against self-incrimination.
5. My right to confront and cross-examine the State's witnesses against me.
6. My right to present evidence and witnesses on my own behalf and to testify in my own defense if I choose to do so.
7. My right to appeal to the Rhode Island Supreme Court from the sentence imposed by the Court after the entry of my plea of Nolo Contendere or Guilty.
8. My right to have the Court obtain and consider a pre-sentence report before the imposition of sentence by the Court.
9. My right to file a motion for a reduction in sentence

No promises have been made to me by my Attorney, the State's Attorney, or the Court, other than the fact the Court has agreed to impose the following sentence in addition to whatever money costs are imposed by law.

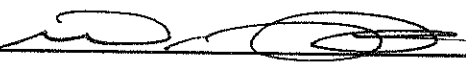

SENTENCE

Count 1: 7 years ACI, 4 years to serve, the balance of 3 years is suspended with probation.
 Count 2: 1 year SD, said sentence is suspended with probation.
 Said sentences to run concurrently with each other and concurrently with the sentence imposed in Central States v Celona (CR 05-80T). Execution of sentence stayed until March 2, 2007 (the defendant's appearance may be waived).
 Counts 3, 4 and 5 shall be dismissed pursuant to Rule 48A.

I understand if the Court imposes the sentence referred to above, I will not be permitted to withdraw my plea of Nolo Contendere or Guilty except by permission of the Court.

I UNDERSTAND THAT IF I AM A RESIDENT ALIEN, A SENTENCE IMPOSED AS A RESULT OF MY PLEA MAY RESULT IN DEPORTATION, EXCLUSION OF ADMISSION TO THE UNITED STATES, AND/OR DENIAL OF NATURALIZATION PURSUANT TO THE LAWS OF THE UNITED STATES, AND THAT THIS COURT WILL HAVE NO CONTROL OVER THOSE PROCEEDINGS.

I have discussed the entire contents of this form with my Attorney, who has explained it to me. I have no questions as to what it states or what it means, and I understand it completely. I swear to the truth of the above.

6. WITNESS (Attorney for the Defendant) Date <u>2.20.07</u>	7. DEFENDANT Date <u>2.20.07</u>
Signature 	Signature 
Print Name <u>William C Dimitri</u> Reg. # <u>3129</u>	Print Name <u>John Celona</u>