

STATE OF MICHIGAN

IN THE TRIAL COURT FOR THE COUNTY OF WASHTENAW

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

vs.

FILE NO. CR-W-03-938-FH
HON. DONALD SHELTON

MATTHEW D. FREEMAN

Defendant.

BRIAN L. MACKIE (P25745)
Washtenaw County Prosecutor
200 N. Main St.
Po Box 8645
Ann Arbor, MI 48107
(734) 222-6639

DAVID I. GOLDSTEIN (P14130)
Attorney for Defendant
2010 Hogback, Ste. 2
Ann Arbor, MI 48105
(734)971-0110

FILED
WASHTENAW COUNTY, MI.
2010 FEB -5 P 2:32
LAWRENCE KESTENBAUM
COUNTY CLERK/REGISTRAR

MOTION TO CORRECT THE RECORD

NOW COMES the Defendant, by and through his Attorney, David I. Goldstein, and says, by way of his Motion to Correct The Record, that;

1. The Defendant herein was charged, in the original information, with one count of Criminal Sexual Conduct in the 3rd degree;
2. The specific element with which the Defendant was charged is what was commonly called "Statutory" Criminal Sexual Conduct; that is, the Defendant was charged with having sexual relations with a female under the age of 16 years of age;

3. As a result of negotiations between the Defendant and his counsel, on the one hand, and the Washtenaw County Prosecuting Attorney's office on the other, a plea agreement was reached;
4. Pursuant to that plea agreement, the Defendant was to plead guilty to one count of Criminal Sexual conduct in the 4th degree and the Criminal Sexual Conduct in the 3rd degree charge was to be dismissed;
5. On July 29, 2003, the Defendant, along with his counsel, appeared in front of this Court;
6. At that time, Lenore Ferber, assistant Washtenaw Prosecuting Attorney, indicated to the Court that a plea agreement had been reached and moved to amend the information to add a count of Criminal Sexual Conduct in the 4th degree;
7. In her recitation to the court, Ms. Ferber did not specify a sub section of the statute to which the Defendant would be entering his plea;
8. As part of the plea taking process, the Court questioned the Defendant with regard to a factual basis;
9. The exchange between the Court and the Defendant involved the Court questioning the Defendant about his having sexual relations with a female who was under the age of 16 years of age;
10. At no point did the Court question the Defendant regarding force and/or coercion nor did the Defendant make any statement regarding force and/or coercion;
11. It is clear from the record that it was the intention of the parties that the Defendant plead guilty to the specific section of the Criminal Sexual Conduct in the 4th degree statute that corresponded to the section of the Criminal Sexual Conduct 3rd degree statute regarding statutory criminal sexual conduct;

12. However, despite that, when the paperwork memorializing the conviction was prepared, it was prepared as if the Defendant had plead guilty to Criminal Sexual Conduct in the 4th degree-force and/or coercion;

13. That error has significant consequences for the Defendant, particularly with regard to his obligation to register under the Sex Offender Registry Act and other statutory provisions;

WHEREFORE, Defendant prays that this Court correct the record to accurately reflect that the Defendant plead guilty to the section of the Criminal Sexual Conduct 4th degree statute relating to Statutory Criminal Sexual conduct, that is – sexual relations with a female under the age of 16.

Dated: February 2, 2010



David I. Goldstein (P14130)
Attorney for Defendant

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COUNTY CLERK/REGISTER

NOTICE OF HEARING

PLEASE TAKE NOTICE that a hearing for **Defendant's Motion to Correct the Record**, will be heard in front of the HONORABLE DONALD E. SHELTON, 101 E. Huron Street, Ann Arbor, MI 48107, on Tuesday, March 2, 2010, at 3:00 p.m. or as soon thereafter that counsel may be heard.

Dated: February 2, 2010



DAVID I. GOLDSTEIN (P14130)
Attorney for Defendant

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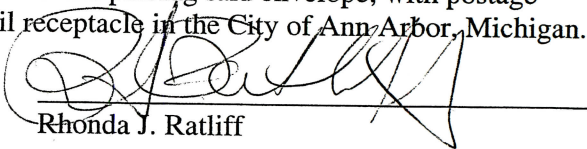
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COUNTY CLERK/REGISTER

PROOF OF SERVICE

Rhonda J. Ratliff, certifies that on the 2nd day of February 2010, she served a copy of the DEFENDANT'S MOTION TO CORRECT THE RECORD, Notice of hearing and a Proof of Service upon:

BRIAN L. MACKIE (P25745)
Washtenaw County Prosecutor
200 N. Main St.
Po Box 8645
Ann Arbor, MI 48107
(734) 222-6639

by placing said item(s) in an envelope addressed as above and placing said envelope, with postage sufficient for first class mailing in a United States mail receptacle in the City of Ann Arbor, Michigan.


Rhonda J. Ratliff