

**IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR ST. JOHN'S COUNTY, FLORIDA**

STATE OF FLORIDA,

v.

**CRIMINAL DIVISION
CASE NO.: 10-0141-CFM**

MISTY CROSLIN,

MOTION FOR POST CONVICTION RELIEF

COMES NOW, the Defendant, Misty Croslin, pro se, in the above captioned case, respectfully moves this Honorable Court for an Order, pursuant to Florida Rules of Criminal Procedure 3.850, vacating and setting aside the judgments of convictions and sentences imposed upon her by this Court. In support thereof, Ms. Croslin respectfully submits the following:

PROCEDURAL HISTORY

Name and location of the Court that entered the judgment of conviction under attack: Seventh Judicial Circuit, St. John's County, Florida
The Honorable Judge Wendy Berger

1. Date of judgment of conviction: October 8, 2010
2. Length of sentence: 25 years
3. Nature of offense involved (all counts): Trafficking Oxycodone;
28-30 kilograms
4. What was your plea? Nolo Contendre
5. Kind of trial? Judge only without jury
6. Did you testify at the trial or any pretrial hearing? Yes

If yes, list each such occasion: October 8, 2010

7. Did you appeal from the judgment of conviction? Yes

8. If you did appeal, answer the following:

- (a) Name of Court: District Court of Appeal, Fifth District
- (b) Result: Affirmed
- (c) Date of Result: June 28, 2011
- (d) Citation: 64 So 3d 690

9. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed and petitions, application, motions, etc., with respect to the judgment in this Court? Yes

10. If your answer to number 9 was "yes", give the following information (Applies only to proceedings in this Court):

- (a) (1) Nature of the proceeding: Petition for Habeas Corpus Seeking Belated Appeal
- (2) Did you receive an evidentiary hearing on your petition, application, motion, etc.: Yes
- (3) Result: Petition granted
- (4) Date of Result: May 22, 2015

11. Other than a direct appeal from the conviction and sentence, have you previously filed any petitions, application, motions, etc., with respect to this judgment in any other Court? No

12. Do you have any petition, application, appeal, motion, etc., now pending in any court, either state or federal, as to the judgment under attack: No

13. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

- (a) At preliminary hearing:
Robert Fields, Esquire
413 St. Johns Ave.
Palatka, Fl 32117

- (b) At arraignment and plea:
Robert Fields, Esquire
413 St. Johns Ave.
Palatka, Fl 32117
- (c) At sentencing:
Robert Fields, Esquire
413 St. Johns Ave.
Palatka, Fl 32117
- (d) On appeal:
James Purdy, Esquire
Public Defender
251 N. Ridgewood Ave.
Daytona Beach, Fl 32114-3275
- (e) In any post conviction proceeding: Pro Se

GROUND ONE

INVOLUNTARY PLEA BASED ON OFF THE RECORD PROMISES MADE BY COUNSEL

The Defendant, Misty Croslin, was charged with Trafficking in Oxycodone between 28-30 kilograms. According to Florida Statutes, this charge carries a mandatory minimum sentence of twenty-five (25) years with a statutory maximum of thirty (30) years.

Counsel Fields advised Ms. Croslin that it would be in her best interest to enter a guilty, open plea to the court. Croslin was eighteen (18) years of age at the time this offense occurred. Counsel Fields promised Croslin that if she entered into an open plea she would be sentenced under the Youthful Offender Act and she would receive a Youthful Offender sentence of six (6) years.

Croslin was not sentenced under the Youthful Offender Act and was ultimately given a twenty-five (25) year mandatory minimum prison sentence. If not for counsel's promise of a six (6) year prison sentence under the Youthful Offender Act, Croslin would not have entered a guilty plea. She entered the guilty plea strictly on the advice of counsel.

If not for counsel's errors/promises, Croslin would not have pled guilty and would have insisted on going to trial. Croslin was prejudiced by counsel's promises of a six (6) year prison sentence under the Youthful Offender Act. She pled guilty so she would receive the promised six (6) year sentence. In essence, Croslin pled guilty to a first degree felony with a twenty-five (25) year mandatory minimum, thinking she'd receive the promised sentence and was trapped when the Court did not agree to sentence Croslin as a youthful offender.

Croslin's mother, Lisa Croslin, will testify at an evidentiary hearing that Counsel Fields spoke with her regarding the Youthful Offender sentence promised.

GROUND TWO

INVOLUNTARY PLEA BASED ON COUNSEL'S FAILURE TO ADVISE DEFENDANT OF MANDATORY SENTENCE

Croslin pled guilty and entered an open plea to the Court for the charge of trafficking in Oxycodone between 28-30 kilograms. Florida Statutes provides for this offense, a mandatory minimum term of twenty-five (25) years in the Department of Corrections. Counsel Fields failed to advise Croslin of the mandatory term of twenty-five (25) years. Counsel Fields told Croslin that she would receive a youthful offender sentence of six (6) years. At no time did counsel discuss the possibility of another sentence. He did not tell Ms. Croslin that if she pled guilty to this charge she would receive a mandatory sentence of at least twenty-five (25) years if she was not sentenced as a youthful offender. During the sentencing hearing, Counsel Fields argues that if the court did not sentence her as a youthful offender she would receive a sentence of at least twenty-five (25) years. Obviously, this was after she had entered the plea.

Croslin did not understand the ramifications of entering the open plea. She did not know that the twenty-five (25) year term of incarceration was mandatory in her case and was her only option if she was not sentenced as a youthful offender.

Ms. Croslin entered the open plea based on her belief and promises from counsel that she would be sentence to a youthful offender sentence of six (6) years.

Croslin contends that she would not have entered into the open plea if she had been told by Counsel Fields that there was any possibility of receiving the mandatory term of twenty-five (25) years.

But for counsel's errors, Croslin would not have pleaded guilty but would have insisted in taking her case to trial.

GROUND THREE

INVOLUNTARY PLEA BASED ON DEFENDANT'S INABILITY TO COMPREHEND PLEA DUE TO HIGH DOSAGE OF PSYCHOTROPIC MEDICATION

Croslin contends that her guilty plea was involuntary due to the high dosage of psychotropic medication she was taking at the time she entered the plea. Croslin contends that the high dosage of medication altered her ability to clearly understand the charges against her and her mental condition made her unable to comprehend the nature and consequence of her plea.

Ms. Croslin entered a guilty plea to the charge of trafficking in Oxycodone which, by Florida Statutes, carries a mandatory minimum prison term of twenty-five (25) years. At the time, Croslin entered this guilty plea she was under the influence of high dosage of psychotropic medications. She was being treated for severe depression, anxiety, and P.T.S.D. She was taking a high does of Visterol and Prozac.

Due to her high dosage of these medications, Croslin asserts that while being questioned during her plea colloquy she was “in a daze” and stayed in this dazed state of mind throughout the colloquy as well as her sentence hearing. She was unable to comprehend the nature and consequences of her plea.

This involuntary guilty plea prejudiced the Defendant since she was expecting a six (6) year youthful offender sentence but was sentenced to a mandatory term of twenty-five (25) years incarceration.

Had Ms. Croslin not been on this high dosage of psychotropic medication, she would have been able to properly evaluate the consequences of entering a guilty plea; she would not have entered the guilty plea but would have insisted on continuing to trial.

GROUND FOUR

COUNSEL WAS INEFFECTIVE FOR FAILURE TO INVESTIGATE AND PRESENT ENTRAPMENT A PLEA DEFENSE

Croslin contends that she was entrapped into committing the offense of trafficking by the confidential informant, Donna Brock, and the undercover detective, Josh Lee. Detective Lee played on Croslin’s sympathy and coerced her into selling him pills by telling her he was in extreme pain and really needed pain pills.

Donna Brock, who is a confidential informant, coerced Croslin into selling her Oxycodone prescription by telling her she really needed money. She asked Croslin if she could help her sell her extra pills so she could get the needed money.

On the night of this particular transaction, Croslin and Brock were on their way back to the State of Florida. The undercover detective called Croslin to see if she would sell him pain pills. Brock was already attempting to get Croslin to help her sell the pills she had. When the detective called, the opportunity to help two friends arose. She could help one friend, the Confidential Informant get money by selling her pills and she could help her other friend, the undercover detective, get the pain pills he needed so he'd no longer be in pain. Croslin was entrapped into committing this trafficking crime by these two people who she considered friends, playing on her sympathy, and coercing her to commit this crime. Croslin also asserts she had no prior criminal history in drug trafficking.

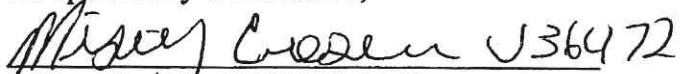
Counsel Fields failed to file a Motion to Dismiss based on entrapment. Counsel Fields also failed to investigate or present a defense of entrapment.

Had Counsel Fields filed a Motion to Dismiss based on entrapment or even presented a defense of entrapment, Croslin would have been acquitted of the charges held against her in light of the substantial amount of evidence she could produce, proving she was entrapped into committing these crimes.

WHEREFORE, the Defendant requests that the court grant all relief to which the Defendant may be entitled in this proceeding, including but not limited

- to:
- (1) Vacate sentence and judgment
 - (2) Grant the Defendant an evidentiary hearing
 - (3) Grant Defendant a trial by jury.

Respectfully Submitted,

 Misty Croslin V36472

Misty Croslin DC# V36472

Lowell Correctional Institution - Annex

11120 N.W. Gainesville Road

Ocala, Florida 34482

UNNOTARIZED OATH

UNDER PENALTIES OF PERJURY, I declare that, I, Misty Croslin have read the motion or it has been read to me, and I understand its content; the Motion for Post Conviction Relief is filed in good faith and is timely filed, has potential merit, and does not duplicate previous motions that have been disposed of by the court; and, the facts contained in the motion are true and correct. I also certify that I understand English.

7-15-15
Date

Misty Croslin V36472
Misty Croslin DC# V36472

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I placed this document in the hands of Lowell Correctional Institution – Annex Legal Mail Staff for mailing to:

Honorable Clerk of the Court, St. John's County, 4010 Lewis Speedway, St. Augustine, FL 32084-8637

State Attorney, St. John's County, 4010 Lewis Speedway, Rm. 252, St. Augustine, FL 32084

On this 15 day of July, 2015.

Misty Croslin V36472
Misty Croslin DC# V36472
Lowell Correctional Institution – Annex
11120 N.W. Gainesville Road
Ocala, Florida 34482

RECEIVED
JUL 20 2015
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LOWELL C.I.

Mary Green V36477
Hobby Cor Inst Annex
120 W. Greavesville Rd
Cala FL 34482

JACKSONVILLE FL 320
21 JUL 2015 PM 11
MAIL ORIGINATED AT
FLORIDA STATE
CORRECTIONAL INSTITUTION



JUL 23 2015

Honorable Clerk of the Court St. Johns
County 4010 Lewis Speedway

St. Augustine FL 32084

Media mail

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