IN THE CIRCUIT COURT OF THE TENTH JUDICIAL COURT
OF THE STATE OF FLORIDA IN AND FOR POLK COUNTY, FLORIDA

STATE OF FLORIDA,
Plaintiff,

vs. **CASE NO.: CF21-006790-XX**

SKYLER MOODY
Defendant.

MOTION TO WITHDRAW PLEA UNDER to Florida R. Crim P. § 3170(f)

Skyler Moody ("Defendant"), acting pro se, pursuant to Florida R. Crim P. § 3170(f) moves to withdraw Pleas of No Contest to a charge of Battery (M1) under and Not Guilty to a charge of Tampering in 2nd Degree (F2) entered before this Honorable Court on July 12, 2023. As grounds in support of this motion the Defendant states the following:

1) On July 12, 2023; the Defendant entered a no contest plea to charges of battery in (M1) under Florida Statute 784.03 and a plea of guilty to tampering (F2) under Florida Statute 914.22(1).

2) Defendant entered his plea on advice of counsel without being fully aware of new exculpatory evidence which would aid in the defense of the Defendant at trial.

3) Defendant maintains that he did not knowingly, intelligently, and voluntarily enter the plea of no contest and plea of guilty due to an adversarial relationship including coercion by counsel and ineffective counsel including misadvice.

4) Defendant asserts that he was not aware of multiple collateral consequences of entering a guilty plea.

5) Florida R. Crim P. § 3170(f). Fla. R. Crim P. allows this court to permit a plea of guilty to be withdrawn at any time prior to sentencing for good cause.

6) Florida R. Crim P. § 3170(f) permits the Defendant to withdraw guilty plea. Withdrawal of Guilty Plea is "liberally construed" under Florida case precedent.

7) The State has not been prejudiced and will not be prejudiced by the withdrawal of the plea.

WHEREFORE, based on the foregoing, the Defendant respectfully requests the court to grant this motion and to allow the Defendant to withdraw the plea of no contest and the plea of not guilty.

I HEREBY CERTIFY that a true and correct copy of the foregoing was hand delivered to the Clerk of the Court with copies for the Office of State Attorney, Bartow, Polk County, Florida this 7th day of August, 2023.

Respectfully submitted,
By: Skyler Moody

x Skyler Moody

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MEMORANDUM OF LAW IN SUPPORT OF MOTION TO WITHDRAW PLEA UNDER FLORIDA R. CRIM. P. SEC. 3170 (f)

1. Fla. R. Crim. P. 3.170(f) reads as follows:

   (f) Withdrawal of Plea of Guilty or No Contest.
   The court may in its discretion, and shall on good cause, at any time before a sentence, permit a plea of guilty or no contest to be withdrawn and, if judgment of conviction has been entered thereon, set aside the judgment and allow a plea of not guilty, or, with the consent of the prosecuting attorney, allow a plea of guilty or no contest of a lesser included offense, or of a lesser degree of the offense charged, to be substituted for the plea of guilty or no contest. The fact that a defendant may have entered a plea of guilty or no contest and later withdrawn the plea may not be used against the defendant in a trial of that cause.

   "Thus, the trial court is obligated to allow the defendant as a matter of right to withdraw a plea if good cause is shown, while in situations where less than good cause is shown, a trial court's decision will not be reversed absent an abuse of discretion." *Smith v. State*, 840 So. 2d 404, 406 (Fla. 4th DCA 2003). "In either situation, this rule should be liberally construed in favor of a defendant; this is because the law inclines towards a trial on the merits, and where it appears the interests of justice would be served, a defendant should be permitted to withdraw the plea." *Id.*

2. Defendant maintains that there has been new exculpatory evidence discovered that was not known prior to accepting the plea. Defendant has recently discovered that examination and extrapolation of phone records, as well as GPS functionality of the vehicle, scientifically establishes that the informant provided false testimony to the investigating officer pertaining to location, timeline and other particulars of the alleged event. Defendant has become aware of the permissibility of this GPS data through the business-records exception and that this data relies upon the scientifically established speed of electromagnetic wave propagation to determine distance, thus

provides reliable determination of location and timeline. In addition, Defendant has recently discovered that the informant directly lied about the presence of an additional witness, introducing new evidence of eye-witness account. Thus, verification of the true sequence of events through the scientific means of location verification as well as corroborative eye-witness testimony would factually establish the informant provided false information to create a false narrative of events. This directly undermines the alleged legitimacy and accuracy of the grounds upon which the initial affidavit of probable cause was written, thus the State's case in entirety. In addition, Defendant was advised by counsel that if the case was taken to trial, the State would likely not be able to achieve a guilty verdict of the Sexual Battery charge, but that the evidence of false accusation would not be permitted as a defense against the Charge of Tampering. Thus, this effectively serves as new evidence, as Defendant only recently discovered that the evidence establishing his innocence of the initial charge of Sexual Battery under Florida Statute 794.0115 (b) would serve as foundational exculpatory evidence against the subsequent charge under Florida Statute 914.22(1). This factor played a pivotal role in the acceptance of the plea as Defendant was under the false belief that all exculpatory evidence would not be permissible as relevant. Further, Defendant has discovered new impeachment evidence concerning the State's primary witness. This impeachment evidence includes proof by other witnesses that material facts are not as testified and a defect of capacity in the witness to remember or recount the matters about which the witness testified, in accordance with Florida Statute 90.608. "Newly discovered evidence satisfies this requirement if it "weakens the case against [the defendant] so as to give rise to a reasonable doubt as to his culpability." *Jones v. State,* 709 So.2d 512, 521 (Fla.1998).

3. Defendant maintains that he did not knowingly, intelligently, and voluntarily enter the guilty plea due to an adversarial relationship including coercion by way of counsel. "Assistance of counsel is among those `constitutional rights so basic to a fair trial that their infraction can never be treated as harmless error.'" Lee v. State, 690 So.2d 664, 668 (Fla. 1st DCA 1997) (finding defendant entitled to conflict-free counsel), quoting Chapman v. California, 386 U.S. 18, 23 n. 8 (1967). Defendant's counsel advised him that because Honorable Judge Franklin was a female, known for

stern sentencing, it was in his best interest to accept a plea deal. Counsel went on to inform Defendant, attempting to deter him from taking the case to trial, that the prosecutor is highly skilled and that the judge is so stern with sentencing that "I wouldn't want her in charge of my sentencing." With the severity of the applicable accusations and potential maximum sentencing, this introduces immense pressure to persuade Defendant to take a plea deal under duress, despite adamantly proclaiming innocence. Further complicating the issue, Defendant agreed to pay counsel in the amount of $20,000 for pre-trial representation and an additional $10,000 trial fee, approximately $15,000 of which had been paid at that time. It is important to note that Defendant temporarily fell behind on payments after approximately $15,000 had been paid, at which point counsel's alleged assessment of defensibility changed. Inability to afford new representation forced Defendant into a position to either maintain counsel, thus comply, or obtain a public defense attorney after having already paid a substantial fee for private representation while remaining subject to the previous financial obligation. Furthermore, Defendant insisted on deposing the relevant parties prior to trial, as he was convinced this would solidify the nature of the false accusation involved in this case. For example, in the initial interview, the informant consistently contradicts herself, changes her testimony and expresses hesitancy to press charges. She also informs the officer of multiple other parties that possessed information regarding the alleged event, none of which were questioned in the investigation. In fact, the officer explicitly assures the informant that he will not follow up with the other parties to investigate the legitimacy and consistency of her allegations. Moreover, in the recorded interview the officer himself repeatedly expresses doubt as to the accuracy and truthfulness of the testimony, pointing out the informant's hesitancy to answer the questions straight forward, the overall contradictory and inconsistent nature of the allegations, and even the outright impossibility of the testimony. In such a scenario, it is in Defendant's best interest, as well as the best interest of justice, to depose the relevant parties. "The standard was and remains whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant." *North Carolina v. Alford*, 400 U.S. 25, 31, 91 S.Ct. 160, 164, 27 L.Ed.2d 162 (1970). Defendant was advised by

counsel that "plea bargains will be off the table if we hold depositions" and that they needed to wait until the state offered a plea prior to pursuance of depositions. Therefore, Defendant reluctantly agreed to wait to pursue depositions until the avenue of reasonable resolution by way of plea deal was exhausted, under the advisement of counsel. Compounding the issue, Defendant was not offered a plea deal until he was contacted by counsel on July 6, 2023, at which point he was informed that the reason it took so long to receive a plea offer was because the state had difficulty acquiring cooperative contact with the alleged victim. Counsel had not contacted Defendant from the time of the previous hearing up until the time of that conversation, at which time he was informed by counsel that he either needed to take the plea or "we go to trial Friday" referencing the following Friday, July 14, 2023. Again, Defendant consistently expressed, from the beginning, that under no circumstances did he want to go to trial prior to deposing the witnesses, as he felt it would exonerate him of the false allegations. Additionally, Defendant consistently informed counsel that he wanted to go to trial due to actual innocence, and that he would only entertain a plea if it involved no imprisonment. Instructing Defendant that he must either take the unfavorable plea deal with imprisonment or go to trial 8 days later, without deposing the relevant parties and preparing adequate defense, constitutes coercion that pressured Defendant into accepting the plea deal against his wishes and better judgment. The accusation of coercion is plainly established by way of Defendant being placed under threat of being forced to go to trial inadequately prepared or accept the plea. Threats and coercion, if established, are grounds that would support withdrawal of a guilty plea. *See Clay v. State*, 89 So. 353, 355 (Fla. 1921); *Canada v. State*, 198 So. 220, 223 (Fla. 1940). When counsel was confronted about this by Defendant attempting to discuss withdrawing the plea on 7/17/2023, he stated: "It was a strategic decision that I made." Of course, Defendant was never informed of this "strategic decision" on his behalf to go to trial without holding depositions, a lack of communication that effectively forced him to accept the plea or go to trial rushed and inadequately prepared under threat of stern sentencing in the scenario of suffering a loss at trial. Defendant was forced to decide between 3 years in prison, despite factual innocence, or go to trial inadequately prepared within 8 days. Discussing this

rushed decision with his family, forced to consider the potential for maximum penalty due to inadequate defense preparation, caused Defendant to accept the plea offer in a state of fear and mental weakness. One of the grounds which would constitute "good cause" to permit withdrawal of a guilty plea is proof that the plea was entered under "mental weakness." *See Yesnes v. State,* 440 So.2d 628, 634 (Fla. 1st DCA 1983); *Baker v. State,* 408 So.2d 686, 687 (Fla. 2d DCA 1982). Relying upon counsel's misadvice, Defendant was ignorant of the fact that establishing the untruthfulness of the original testimony serves as refutation of the subsequent Tampering Charge. Good cause to withdraw a plea has been found to exist "when the plea is `infected by misapprehension, undue persuasion, ignorance, or was entered by one not competent to know its consequence or that it was otherwise involuntary, or that the ends of justice would be served by withdrawal of such plea.'" *Johnson v. State*, 947 So.2d 1208, 1210 (Fla. 5th DCA 2007) (quoting *Onnestad v. State*, 404 So.2d 403, 405 (Fla. 5th DCA 1981). In summation, counsel knew from the moment of retainment that Defendant maintained actual innocence and insisted on taking the case to trial prior to accepting any plea deal involving imprisonment. Counsel also knew that Defendant did not want to go to trial without holding depositions, as he felt it would exonerate him of the false accusations. Counsel then advised Defendant to wait for a plea offer prior to pursuing depositions, later claiming the cause for the prolonged delay was the State's inability to communicate with the alleged victim to approve a plea offer. Then only 8 days prior to the trial date, counsel informed Defendant of the first plea offer, which included 3 years of imprisonment. Counsel then presented Defendant with the ultimatum that he either accept the plea or go to trial without holding depositions or preparing adequate defense. Defendant later confronted counsel about this coercive tactic at which point counsel stated it was a strategic decision he had made without conferring with Defendant. The actions of counsel constitute coercion, undue persuasion, and manipulation, establishing that the plea was entered under mental weakness, misapprehension, mistake, ignorance, surprise, and fear. "Good cause is shown if the plea was entered under mental weakness, misapprehension, mistake, surprise, fear, promise, ignorance of a consequence, or other circumstances affecting a defendant's rights." *State v.*

Partlow , 840 So. 2d 1040, 1044 (Fla. 2003) (Cantero, J., concurring); *see also Johnson v. State* , 971 So. 2d 212, 214 (Fla. 4th DCA 2008)." *Stewart v. State,* 315 So. 3d 756, 758 (Fla. Dist. Ct. App. 2021). "This presentence standard is favorable to defendants, and trial courts are encouraged to liberally grant motions made before sentencing." *Tanzi v. State,* 964 So.2d 106, 113 (Fla. 2007). The Courts have held that when a represented defendant files a *pro se* motion to withdraw plea, the proper procedure is for the trial court to automatically appoint conflict-free counsel to assist the defendant in redrafting and resubmitting the motion to withdraw plea. *See Kelly v. State* , 925 So. 2d 383, 386 (Fla. 4th DCA 2006) ; *Schriber v. State* , 959 So. 2d 1254, 1257 (Fla. 4th DCA 2007). "We outline the procedure trial courts should follow when a represented defendant files a pro se rule 3.170(*l*) motion based on allegations giving rise to an adversarial relationship such as counsel's misadvice, misrepresentation, or coercion that led to the entry of the plea. In these narrow circumstances, ... the trial court should hold a limited hearing at which the defendant, defense counsel, and the State are present. If it appears to the trial court that an adversarial relationship between counsel and the defendant has arisen and the defendant's allegations are not conclusively refuted by the record, the court should either permit counsel to withdraw or discharge counsel and appoint conflict-free counsel to represent the defendant." *Sheppard v. State,* 17 So. 3d 275 (Fla. 2009). Further, Defendant maintains that counsel repeatedly misadvised him as to his avenues of defense. For example, counsel advised Defendant that establishing false accusation would not constitute as an avenue of defense against the Charge of Tampering. However, the Courts have made it clear that specific intent must be established beyond a reasonable doubt, with an emphasis on truthfulness, as "to attempt to persuade a witness to testify truthfully is not a crime." *Williams v. State,* 145 So. 3d 997 (Fla. Dist. Ct. App. 2014). Defendant only learned about the validity of this defense following the plea agreement, due to proper advisement and independent investigation. In fact, Defendant was specifically advised that despite the false accusation, it would not serve as an avenue of defense. However, Defendant has recently discovered that the courts have consistently stated just the opposite, ruling that encouraging a witness to testify truthfully is in the best interest of justice, and

that to criminalize this act encourages injustice. *See State v. Cohen,* 568 So.2d 49, 52 (Fla.1990), *Standard Jury Instructions in Criminal Cases—Report No. 2012–04,* 131 So.3d 720, 743–44 (Fla.2013), *Williams v. State,* 145 So. 3d 997 (Fla. Dist. Ct. App. 2014), *Mays v. State,* 198 So. 3d 35 (Fla. Dist. Ct. App. 2015), Ch. 92–281, § 1, at 2116, Laws of Fla. Furthermore, Defendant has recently discovered that the subsequent information used for the additional Charge of Tampering explicitly states the alleged evidence for this additional charge was the original testimony. Thus, simple and proper examination of the information shows that the State's entire case is built upon the assumed legitimacy and truthfulness of the original testimony. Therefore, this serves as an additional example of ineffective counsel, as Defendant was consistently advised that the truthfulness of the original testimony held no relevance as to defense against the subsequent Charge of Tampering. "The law is well settled that if a defendant enters a plea in reasonable reliance on his attorney's advice, which in turn was based on the attorney's honest mistake or misunderstanding, the defendant should be allowed to withdraw his plea," *see Leroux,* 689 So. 2d at 238 (citing *Costello v. State,* 260 So. 2d 198 (Fla. 1972); *Brown v. State,* 245 So. 2d 41 (Fla. 1971)). Furthermore, Defendant was advised by counsel that it was his burden to prove intent regarding the Charge of Tampering under 914.22(1). However, in discussing the previously determined facial invalidity of this statute, the Court explains that "the apparent attempt to use this affirmative defense to narrow the language of subsection 914.22(1)(a) is done in such a way as to impermissibly shift the burden of proof to the defendant and quite possibly to render this burden of proof impossible to meet." *State v. Cohen,* 563 So. 2d 49, 52 (Fla. 1990). As the court has made it clear that shifting the burden of proof to the Defendant under 914.22(1) is impermissible and unconstitutional, this is yet another case of Defendant being misadvised by ineffective counsel. Moreover, Counsel advised Defendant that no jury would acquit him because the State could prevent them from seeing the evidence exonerating him of the Sexual Battery Charge. This is certainly improper advice as the State has the burden to prove the specific intent of attempting to induce the witness to testify untruthfully and the charging information itself specifically invokes the testimony as the evidence that further maintains their claimed interpretation of the

interaction. Thus, the state is required to establish and prove the legitimacy of the initial allegations, beyond and to the exclusion of any reasonable doubt, in order to even formulate the subsequent allegation. This was the primary argument counsel invoked to persuade Defendant that no jury would acquit him of the Charge of Tampering, thus one of the primary factors of determination for Defendant. Interestingly, there is a history of improper jury instruction in cases tried under 914.22(1) to such an extent that the Jury Instructions were updated due to the insufficiency and lack of clarity detailing the State's burden to prove specific intent. In addition, counsel misadvised Defendant that he was not entitled to particulars and clarity as to the specific crime he was being accused of under 914.22(1). However, the Courts have been clear that Defendant is in fact entitled to this right to avoid embarrassment and the threat of double jeopardy, expounded upon below. This lack of clarity is directly detrimental to the ability of Defendant to properly determine adequacy of defense, effectively forcing him to decide upon a plea offer without properly understanding the decision itself. Counsel advised Defendant that the State did not specify the allegation and that he was not entitled to such specification. Thus, due to the advisement of Counsel, Defendant was under the belief that he must speculate as to every possible interpretation and application of his communications and the statute in order to prepare defense. Defendant has only since become aware of the fact that he is entitled to request the State provide particulars as to the specific nature of the allegation to avoid embarrassment. Another example of ineffective counsel is the neglect regarding the potential for a Brady violation committed by the State. The omissions from the original charging information, combined with the State's alleged prolonged inability to get in contact with the informant, establishes reasonable suspicion of a *Brady* violation. It is also important to note that as it pertains to *Brady* parameters, suppression alone does not constitute a due process violation as "in the absence of actual suppression of evidence favorable to an accused . . . the state does not violate due process in denying discovery.'" *Delap v. State,* 505 So.2d 1321, 1323 (Fla. 1987) (quoting *James v. State,* 453 So.2d 786, 790 (Fla.), *cert. denied,* 469 U.S. 1098, 105 S.Ct. 608, 83 L.Ed.2d 717 (1984)). However, in the applied context of crucial omission of evidence favorable to the accused in the

original charging information, there exists justifiable reasoning for suspicion of subsequent omission. Of course, proper determination of a *Brady* violation requires the suppressed evidence in question to be examined directly. *Brady* states that suppressed evidence must be "material." 373 U.S. at 87, 83 S.Ct. at 1196-97. Since *Brady,* the Court has discussed materiality several times: "The mere possibility that an item of undisclosed information *might* have helped the defense, or *might* have affected the outcome of the trial, does not establish `materiality' in the constitutional sense." *United States v. Agurs,* 427 U.S. 97, 109-10, 96 S.Ct. 2392, 2400, 49 L.Ed.2d 342 (1976) (emphasis added). Therefore, "evidence is material *only* if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." *Bagley,* 473 U.S. at 682, 105 S.Ct. at 3383 (emphasis added). The Court defined "reasonable probability" in *Bagley* as "a probability sufficient to undermine confidence in the outcome." *Breedlove v. State,* 580 So. 2d 605 (Fla. 1991). Any subsequent contact with the alleged victim by investigators justifies a Notice of *Brady* Claims, being as the entire foundation for the State's case is the assumed truthfulness of that witness testimony, providing yet another avenue for a potential defense that Defendant was entirely unaware of at the time of entering the plea due to ineffective counsel. For example, there exists reasonable suspicion that the informant may have informed the State that she did not want to testify at trial. The foundation for this suspicion is that the informant articulates this concern and hesitancy multiple times in the original testimony and the State has apparently had difficulty getting into contact with her since that original testimony, according to counsel. "A claim of ineffective assistance of counsel for failure to advise a defendant of a potential defense can state a valid claim if the defendant was unaware of the defense and can establish that a reasonable possibility exists that he would not have entered his plea if properly advised." See *Jacobson v. State*, 171 So.3d 188, 191 (Fla. 4th DCA 2015).

4. Defendant maintains that he was not aware of multiple collateral consequences of entering a guilty plea. "A collateral consequence of a plea is a consequence that does not have a definite, immediate, and largely automatic effect on the range of the defendant's punishment." *State v. Partlow,* 840 So.2d 1040 (Fla. 2003). "When a

defendant enters a plea in reliance on affirmative misadvice and demonstrates that he was thereby prejudiced, the defendant may seek to withdraw the plea even if the misadvice concerns collateral consequences as to which the trial court was under no obligation to advise." *Burns v. State*, 826 So. 2d 1055, 1056-57 (Fla. 4th DCA 2002) (citing *Ghanavati v. State*, 820 So. 2d 989, 991 (Fla. 4th DCA 2002); *Murphy v. State*, 820 So. 2d 375 (Fla. 4th DCA 2002); *Love v. State*, 814 So. 2d 475 (Fla. 4th DCA 2002); *Jones v. State*, 814 So. 2d 446 (Fla. 4th DCA 2001)). Defendant maintains that he was not informed, thus was unaware, of the collateral consequence of potential future sentence enhancement due to the conviction. "Allegations of affirmative misadvice by trial counsel on the sentence-enhancing consequences of a defendant's plea for future criminal behavior in an otherwise facially sufficient motion are cognizable as an ineffective assistance of counsel claim." *Dickey v. State,* Case No. 1D03-2489 (Fla. Dist. Ct. App. Feb. 15, 2005). "We hold, as a matter of law, that counsel's misadvice regarding the collateral consequence of future sentence enhancement constitutes deficient performance." *Dickey v. State*, Case No. 1D03-2489 (Fla. Dist. Ct. App. Feb 15, 2005). Defendant maintains he was also unaware of the fact that he could be legally and freely discriminated against due to the conviction, in terms of future housing and employment. Defendant further maintains he did not understand that the acceptance of the plea would result in this discrimination, not only in the State of Florida, but all other states in perpetuity. Additionally, Defendant did not fully appreciate the consequences of the plea as he has since become aware of the fact that, as a result of the conviction, he would lose the right to own a firearm and the right to vote in perpetuity. Defendant is a strong proponent of the Second Amendment right to bear arms in order to protect himself and his family, rendering this consequence of major importance. Defendant further maintains that he was unaware of the collateral consequence of future impeachment, significantly affecting his ability to testify as a witness. Moreover, Defendant did not appreciate the damage to reputation, as the State's plea offer dropped the initial charge from a sexual offense. However, upon subsequent examination, Defendant has come to the realization that the conviction can effectively serve as the same damage to reputation due to public accessibility of the initial charge. Thus, the reputation of

Defendant would include that he was charged with sexual battery and tampering with the witness, and then was later convicted due to those charges being brought against him. The severe, immoral and egregious nature of sexual battery, despite Defendant maintaining actual innocence, will result in inevitable and severe damage to reputation, as it already has. "Included in the category of collateral consequences are such matters as damage to reputation, loss of professional licenses, and loss of certain civil rights, examples of which are the right to vote and the right to own a firearm. *See* §§ 944.292(1); 790.23; 97.041(2)(b), Fla. Stat. (2004)." *Dickey v. State,* Case No. 1D03-2489 (Fla. Dist. Ct. App. Feb. 15, 2005). "Failure to inform [the defendant] of the collateral consequences may not have rendered the plea involuntary, but that his ignorance of it does meet the 'good cause' test for a pre-sentence plea withdrawal." *Johnson v. State*, 947 So. 2d 1208 (Fla. 5th DCA 2007). *See also Johnson v. State,* 971 So. 2d 212, 215 (Fla. Dist. Ct. App. 2008).

5. "Failure to inform [the defendant] of the collateral consequences may not have rendered the plea involuntary, but that his ignorance of it does meet the 'good cause' test for a pre-sentence plea withdrawal." *Johnson v. State*, 947 So. 2d 1208 (Fla. 5th DCA 2007). *See also Johnson v. State,* 971 So. 2d 212, 215 (Fla. Dist. Ct. App. 2008). Good cause to withdraw a plea has been found to exist "when the plea is `infected by misapprehension, undue persuasion, ignorance, or was entered by one not competent to know its consequence or that it was otherwise involuntary, or that the ends of justice would be served by withdrawal of such plea.'" *Johnson v. State*, 947 So.2d 1208, 1210 (Fla. 5th DCA 2007) (quoting *Onnestad v. State*, 404 So.2d 403, 405 (Fla. 5th DCA 1981). One of the grounds which would constitute "good cause" to permit withdrawal of a guilty plea is proof that the plea was entered under "mental weakness." *See Yesnes v. State,* 440 So.2d 628, 634 (Fla. 1st DCA 1983); *Baker v. State,* 408 So.2d 686, 687 (Fla. 2d DCA 1982). "Good cause is shown if the plea was entered under mental weakness, misapprehension, mistake, surprise, fear, promise, ignorance of a consequence, or other circumstances affecting a defendant's rights." *State v. Partlow* , 840 So. 2d 1040, 1044 (Fla. 2003) (Cantero, J., concurring); *see also Johnson v. State* , 971 So. 2d 212, 214 (Fla. 4th DCA 2008)."

Stewart v. State, 315 So. 3d 756, 758 (Fla. Dist. Ct. App. 2021). When good cause is established, Florida Rule of Criminal Procedure 3.170(f) entitles the defendant to withdraw his pre-sentence plea. *Tanzi v. State,* 964 So.2d 106, 113 (Fla. 2007). "If the defendant prior to sentencing shows good cause for withdrawal of the plea, the trial court must permit the defendant to withdraw the plea." *Gray v. State,* 754 So. 2d 107 (Fla. Dist. Ct. App. 2000). "A trial court has the discretion to allow a defendant to withdraw a plea before sentencing, but it must do so on a showing of good cause." *Studemire v. State,* 305 So. 3d 833 (Fla. Dist. Ct. App. 2020).

6. "Where a motion presents a sufficient basis for withdrawal of a plea, a trial court commits reversible error if it fails to 'conduct an evidentiary hearing in order to develop the facts surrounding the entry of the plea.'" *Crane v. State,* 69 So.3d 357, 359 (Fla. 2d DCA 2011) (quoting *Caddo v. State,* 806 So.2d 520, 521 (Fla. 2d DCA 2001)). "Because the law favors a trial on the merits, [rule 3.170(f)] should be liberally construed in favor of a defendant." *Moraes v. State,* 967 So.2d 1100, 1101 (Fla. 4th DCA 2007) (citing *Smith v. State,* 840 So.2d 404, 406 (Fla. 4th DCA 2003)).