

IN THE CIRCUIT COURT IN AND FOR WALTON COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

vs.

Case No.: 2023 CF 513

DONNA JAY DIANTHA BARGER,

Defendant.

MOTION FOR STATEMENT OF PARTICULARS

COMES NOW the Defendant, DONNA JAY DIANTHA BARGER, by and through the undersigned attorney, pursuant to Fla. R. Crim.P. 3.190(n), respectfully requests the Court issue an Order for the Plaintiff to provide the Defendant with a Statement of Particulars and states as such:

The Information filed on July 26, 2023 by the Florida State Attorney's Office is deficient in informing the Defendant of the Particulars of the alleged offense(s) to enable the Defendant to sufficiently prepare a defense for trial.

Pursuant to Fla. R. Crim. P. 3.140(b), the nature of the Information filed on which the Defendant is to be tried shall be a plain, concise, and definite written statement of the essential facts constituting the offense(s) charged.

Also, pursuant to Fla. R. Crim.P. 3.140(d)(1), Allegations of Facts: Citation of Law Violated. Each count of an indictment or information on which the Defendant is to be tried shall allege the essential facts constituting the offense charged.

Each count shall recite the official or customary citation of the statute, rule, regulation, or other provisions of law that the Defendant is alleged to have violated. That burden has not been met with what is indicated on the Information.

The Statement of Particulars shall specify as definitely as possible the:

- (a) Date the alleged offense occurred.
- (b) The address, place the alleged offense occurred.
- (c) The County and State the alleged offense occurred.

and all other material facts of the crime charged that is specifically requested and are known to the prosecuting attorney.

Should it become known or determined while responding to the Motion for Statement of Particulars, that the alleged crime(s) do not fit the Information filed, or if the date of the alleged violations are beyond the Florida Statute of Limitations , which for a 3rd Degree Felony is (3) three years from date on Affiant's Affidavit, which is dated June 1, 2020, for the alleged violation(s) and in light of any evidence of a structural error, omittance or retraction of Statement or Impeachment of the Plaintiff's witness(es) that would render pursuing this case to trial fundamentally unfair or unreliable vehicle for determining guilt or innocence, the Plaintiff shall by all good conscience dismiss and file "No Prosecution".

Florida Rules of Criminal Procedure Rule 3.140(n) also states that any reasonable doubts concerning the construction of this rule shall be resolved in the favor of the Defendant.

RELIEF

WHEREFORE, the Defendant, pursuant to Fla. R. Crim.P. 3.140(n), respectfully requests the Court, on this Motion, shall order the Prosecuting Attorney for the State of Florida to furnish a timely filed Statement of Particulars within (15) fifteen days of this motion filed.

WHEREFORE, the Defendant, respectfully requests the Court, should the State of Florida not issue a timely Statement of Particulars within (15) fifteen days of this motion filed, that the Court, Sua Sponte dismiss these charges against the Defendant.

WHEREFORE, the Defendant, respectfully requests the Court Sua Sponte, dismiss these charges against the Defendant for the Court recognizing that the Date of Offense(s) on the current filed Information states an Offense Date on all three counts to be June 1, 2020, and that the Statute of Limitations for a Third Degree Felony had expired prior to the Defendant even being arrested on June 29, 2023 or Information filed July 26, 2023, three years and two months later.

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished, via U.S. Mail/ Hand Delivery/ E-Mail, to Assistant State Attorney Angela H. Liles, FBN 064360, aliles@osa1.org, and her Legal Assistant, Casei Hollingsworth, chollingsworth@osa1.org, this 23rd Day of July, 2024.

/s/ JOSEPH O. REOSTI
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