

IN THE COUNTY COURT OF THE  
NINETEENTH JUDICIAL CIRCUIT IN AND  
FOR INDIAN RIVER COUNTY, FLORIDA

CASE NO. 31-2020-MM-001119A

STATE OF FLORIDA,  
Plaintiff,

vs.

DAMIEN HERMAN GILLIAMS,  
Defendant.

\_\_\_\_\_ /

MOTION TO MODIFY CONDITIONS OF APPEAL BOND

The Defendant, Damien Herman Gilliams, moves to modify conditions of the supersedeas bond for the appeal presently pending before the Fourth District Court of Appeal.

As grounds for this motion the Defendant would state:

1. On March 30, 2022, the Court clarified conditions of the supersedeas bond regarding no contact with specified people: the city manager (Paul Carlisle), clerk (Janette Williams), Councilman Ed Dodd and Councilman Jim Hill. Except for legal proceedings, the Defendant is not to knowingly come within 100 feet of the specified people, 100 feet of the vehicles occupied by the specified people and 500 feet of the homes of the specified people.

2. The Defendant has resided in the City of Sebastian for more than 30 years. The Defendant is eligible to run for election to the Sebastian City Council and has filed papers for that purpose. The Defendant paid the \$61.00 qualifying fee to the City of Sebastian on August 18, 2022. Exhibit A.

3. The Defendant has a right as a citizen to run for public office. The Defendant similarly has a right to free speech and association under Article I, Sections 4 and 5, of the Florida Constitution, and the First and Fourteenth Amendments to the United States Constitution. As to

the Fourteenth Amendment, the supersedeas conditions violate the privileges and immunity clause. As a citizen and qualified voter, and resident of the City of Sebastian, the Defendant is privileged to an associate with others for political and other purposes, to attend public meetings and other municipal functions on the same basis as other members of the public, and to run for any public office for which he is qualified.

4. Under State law the Defendant, as a candidate, must file with the city clerk income and expenses reports. These reports must be filed with the City Clerk. The Defendant is concerned that such mandatory reporting to the City Clerk may violate the conditions of his supersedeas bond. Further, the Defendant is concerned that the act of filing such reports may constitute a violation because he would not know whether the City Clerk was within 100 feet at the time of the filing of the mandatory reports.

5. The City Manager's Office is located within 100 feet of the City Clerk's office. The Defendant is concerned that the act of filing such reports may constitute a violation because he would not know whether the City Manager was within 100 feet at the time of filing the mandatory reports.

6. The normal election practice is for various organizations to conduct debates. Such debates would require Defendant to be within 100 feet of Ed Dodd.<sup>1</sup> Further, the Defendant might come inadvertently within 100 feet of either Ed Dodd or Jim Hill when filing the mandatory reports with the City Clerk.

7. The clerk notes from the 3/30/22 hearing refer to "any party listed" and to "victims". (Exhibit B). The City Manager, City Clerk, Ed Dodd and Jim Hill were not listed as

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<sup>1</sup> Jim Hill is not running for reelection. However, Mr. Hill may well attend one or more debates which might preclude Defendant's attendance at such debates unless the supersedeas conditions are withdrawn or substantially modified.

“victims” in any count against Defendant and, certainly, were not “parties”. The only “parties” were the State, Defendant and Pamela Parris. As such, it would appear that there should not be any contact restrictions with folks who were not victims or parties.

8. The Defendant, as part of his election preparation and as part of his right as a citizen, has a need to attend city council meetings, city board meetings, city workshop meetings, planning and zoning meetings, code enforcement meetings as well as any and every other public meeting conducted by the City of Sebastian.

9. The Defendant is a member of the public. The Defendant has a right under Florida’s Sunshine Law to attend all public hearings and proceedings. *See* §286.011, Fla. Stat. (2021). The current supersedeas conditions impose unnecessary and oppressive conditions that chill Defendant’s right to association and speech, and to attend public meetings. Further, the current conditions violate Article I, Section 24, of the Florida Constitution. Section 24(b) states that “all meetings of “any collegial public body of a...municipality...at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open...to the public...”. Section 24(c) says the Section 24 shall be self-executing. Only the legislature is permitted to enact exemptions or restrictions to public access. The judiciary is afforded no such authority to create exemptions or restrictions.

10. The Defendant requests that the Court remove all of these “contact” restrictions which unduly burden and restrict Defendant’s rights to attend public hearings, run for public office, participate in political matters, to associate with similar minded persons in advocating or opposing activities of the City of Sebastian, and in expressing his views in forums open to the public for the purpose of running for the city council, or advocating for or against certain activities or proposals.

11. The net effect of these contact conditions is to favor one political faction (Ed Dodd and the incumbent administration) against another faction (Damien Gilliams). It is not the role of the judiciary in the State of Florida to interfere with the political processes of the City of Sebastian. It is ironic that the Court has imposed supersedeas conditions that substantially restrict his ability to participate in his municipal political world when the underlying offense centers around Sunshine Law violations.

12. The circumstances giving rise to these contact conditions have substantially changed. This is not the first time Defendant has run for City Council. It is the 10<sup>th</sup> time. The current contact conditions have the actual effect of making it impossible for the Defendant – who is an eligible candidate – to run for City Council. In effect, the election would be rigged in favor of Ed Dodd.

WHEREFORE, the Defendant Damien Herman Gilliams, moves to eliminate or remove the contact restrictions that violate the Sunshine Law, violate the Defendant's constitutional right to attend public meetings, violate the Defendant's constitutional rights to association and speech, deny Defendant the privileges and immunities guaranteed to every citizen of the United States, and distort the electoral process by effectively rigging the election in favor of the incumbent.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided via eservice to Felicia Holloman, ASA, at the Office of the State Attorney, at [SA19eService@sao19.org](mailto:SA19eService@sao19.org), 2000 16<sup>th</sup> Avenue, Suite 329, Vero Beach, FL 32960, on this 23<sup>rd</sup> day of August, 2022.

Respectfully submitted,

JEFFREY H. GARLAND, P.A.  
By: s/ Jeffrey H. Garland  
Jeffrey H. Garland, Esq.

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Attorney for Defendant

EXHIBIT A

**CITY OF SEBASTIAN** 14172  
**ADMINISTRATIVE SERVICES RECEIPT**

Name Wendell H. Pullman  Cash

Date 7/11/2022  Check # 1

Credit

		Amount Paid
001501 362150	Non-Taxable Rent	_____
001001 220000	Security Deposit	_____
001501 362100	Taxable Rent	_____
001001 208001	Sales Tax	_____
450010 369900	Airport Badge	_____
001001 218010	CobraServe	_____
001501 354100	Code Enforcement Fines	_____
001501 347557	Community Center Revenue	_____
001501 341920	Copies	_____
001501 351140	Parking Citation	_____
001001 220030	PD Shop with a Cop	_____
001001 220033	PD COPE	_____
010043 535270	PD Uniforms	_____
601010 343800	Cemetery Lot Sales	_____
001501 343805	Cemetery Fees	_____

001501 341930  
Qualifying Fee 61.00

WJ Initials Total Paid 61.00

White - Dept. of Origin • Yellow - Admin. Svcs. • Pink - Applicant

## EXHIBIT B



IN THE COUNTY COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
IN AND FOR INDIAN RIVER COUNTY, STATE OF FLORIDA

STATE OF FLORIDA  
VS.

GILLIAMS, DAMIEN HERMAN

Count 1

Chg Code: 286.011(3B)

DOB: 08/01/1980

UCN: 312020MM001119AXXXXX

CHARGE: VIOLATION OF THE SUNSHINE LAW

PLEA:  Not Guilty  Guilty  Nolo Contendere  Admit VOP

SET FOR:  Non-Jury Trial  Jury Trial  VOP Hearing  Sentencing  Arraignment  Infr Court

COURT DATE: \_\_\_\_\_ @ \_\_\_\_\_

ADJUDICATION:

- Guilty
- Not Guilty
- Adjudication Withheld
- Nolle Pro
- Dismiss
- Sentence Withheld
- Court Ordered DDS
- Elect DDS for WM

FEES: PAY IN FULL OR SET UP PAYMENT PLAN TODAY

Fine: \_\_\_\_\_ Court Costs: \_\_\_\_\_  
 PD Applic Fee: \_\_\_\_\_ PD Fee \_\_\_\_\_  
 COI \_\_\_\_\_ COP: \_\_\_\_\_ CLTF: \_\_\_\_\_  
 Additional Court Cost \_\_\_\_\_ TV AD: \_\_\_\_\_  
 Subpoena Fee: \_\_\_\_\_ DDS Affidavit Fee: \_\_\_\_\_  
 Non-Prevail Fee: \_\_\_\_\_ D6 Fee: \_\_\_\_\_  
 Restitution \_\_\_\_\_  
 Cash Bond: \_\_\_\_\_ To \_\_\_\_\_  
 Due By:   /  /  

Report to Clerk's Office to Pay or Enter into Payment Plan Within: \_\_\_\_\_

Serve \_\_\_\_\_ County Jail  Concurrent  Consecutive  Credit Time Serv

Serve \_\_\_\_\_ House Arrest Suspend Upon \_\_\_\_\_

Report   /  /   @ \_\_\_\_\_ Release   /  /   @ \_\_\_\_\_

Core Prob \_\_\_\_\_ Report W/IN \_\_\_\_\_  Concurrent  Consecutive

Revoke & Term  Reinstate Probation may term when complete: \_\_\_\_\_

DUI School  DUI School within 1st 6 mnths Drivers License Suspension \_\_\_\_\_

No Alcohol Business Permit  Yes  No  Victim Impact Panel/ Drug Impact Panel

Car Impoundment \_\_\_\_\_ Ignition Interlock \_\_\_\_\_ AA: \_\_\_\_\_

Random Urine Test  At Defendant's Expense Community Service \_\_\_\_\_

Work Program: \_\_\_\_\_ Days work \_\_\_\_\_ day per week on consecutive weeks until complete

B.I.P.:  26Week  Substance Abuse Evaluation  Mental Health Evaluation  Follow Rec Treatment

Prog Aware  12 Wk Living w/o Violence Class / Anger Mgmt Class  M/M Milpost Class

Enroll W/IN: \_\_\_\_\_  Issue JMT  Issue D6

No Contact with Victim: \_\_\_\_\_

Additional Provisions motion to revoke appellate bond: Denied

JEFFREY R. SMITH, CLERK CIRCUIT COURT

Defendant's Signature \_\_\_\_\_



DEPUTY CLERK  
March 30, 2022

Defendant's Address \_\_\_\_\_

- 100 feet @ of any party listed  
- No 3rd party contact except for legal proceedings  
- No contact text emails - contact U.S. / victims

Judge gave specific instructions of what "No Contact" means  
- 500 Feet of residence  
- 100 feet of vehicle driven by victims