

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

KIMBERLY HURRELL-HARRING, JAMES ADAMS,
JOSEPH BRIGGS, RICKY LEE GLOVER, RICHARD LOVE,
JACQUELINE WINBRONE, LANE LOYZELLE, TOSHA
STEELE, BRUCE WASHINGTON, SHAWN CHASE, JEMAR
JOHNSON, ROBERT TOMBERELLI, CHRISTOPHER YAW,
LUTHER WOODROW OF BOOKER, JR., EDWARD
KAMINSKI, JOY METZLER, VICTOR TURNER, CANDACE
BROOKINS, RANDY HABSHI, and RONALD McINTYRE,
on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

THE STATE OF NEW YORK,

Defendant.

Index No. 8866-07

**AFFIDAVIT
OF PLAINTIFF
KIMBERLY
HURRELL-HARRING**

STATE OF NEW YORK)
) ss.
COUNTY OF WASHINGTON)

KIMBERLY HURRELL-HARRING, being duly sworn, deposes and says:

1. I am a named plaintiff in this case.
2. I am 31 years old and live in Rochester, New York, although I am currently in jail in Fort Edward, New York, in the Washington County Jail.
3. On the day this case was filed, I had a pending criminal case in Washington County Court. I was represented in that case by the Washington County Public Defender.
4. I am a certified nursing assistant, and before I was arrested last September, I worked two jobs so that I could take care of my mom, who is recovering from a stroke, and my daughters, who are four and sixteen.

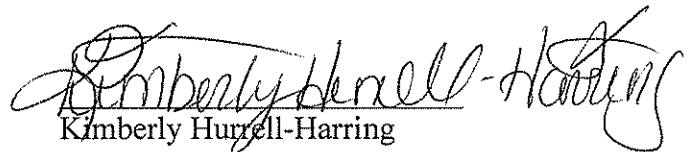
5. On September 29, 2007, I was arrested and charged with introduction of prison contraband in the first degree, a felony, and possession of marijuana, a violation. I was accused of bringing 22.1 grams (around three quarters of an ounce) of marijuana to my husband in jail. He had threatened me into bringing it to him, and he was planning on keeping it for his own use. I faced up to seven year in prison and up to \$5000 in fines.
6. The first time I was in court, I did not have a lawyer to represent me at arraignment. Even though I had absolutely no criminal record, the judge set bail at \$10,000 cash or a \$20,000 bond. There was no way that I could get together so much money, and so I was sent to the Washington County jail.
7. I met my lawyer for the first time at the county jail soon after I was arraigned. The whole time that we were talking, I felt like he didn't really care about my case, my family, or my future. For over a month, he never returned my phone calls or responded to letters I sent him. I felt like he thought of me as just another case he needed to finish and not as an individual.
8. Since I had been accused of bringing such a small amount of marijuana into the prison, and since I had never been in trouble with the law before, I hoped that I could get probation. I wanted to go home, to take care of my mother, to be with my daughters.
9. On October 12, 2007, I pled guilty to promoting prison contraband in the first degree. At that point, I still thought that it was possible for my lawyer to help me get a lesser sentence and to get the charges reduced to a misdemeanor. He had not presented me with any alternatives to doing time in jail on a felony. He also had not explained to me the full consequences of pleading guilty.

10. On November 16, 2007, I was sentenced to six months in jail and five years of probation.


I had strongly thought about withdrawing my plea because I thought I should have been charged with a misdemeanor rather than a felony. I wanted my lawyer to talk to the DA one more time before sentencing. I waited for my lawyer to come talk to me while I was being held before my hearing, but he never did. I only found out in the courtroom, at the defendant's table, that the DA had rejected a request to reduce the charges. Without any chance to talk to my lawyer about what I could do, I didn't ask to withdraw the plea.

11. As a result of this felony conviction, I will lose my certified nursing assistant license and my Section 8 housing. I also was planning on obtaining an associate's degree in phlebotomy or becoming a LPN (license practical nurse). I have worked in the nursing field for over twelve years, and when I lose my jobs, I don't know how I will support my family. If I didn't have my mom's house to go back to, my daughters and I would be on the street.

12. I don't think that my lawyer ever really fought on my behalf for a plea bargain that took into account the circumstances of my charge, my clean record, and how hard things are for my mom and kids without me there to work and to take care of them.


Kimberly Hurrell-Harring

Sworn to before me this
17th day of January, 2007.



Notary Public

MICHAEL MONDOUX
Notary Public, State of New York
No. 01MO6036904
Qualified in Washington County
Commission Expires 2.12.10