

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
TOSHA STEELE**

STATE OF NEW YORK)
) ss.:
COUNTY OF ONTARIO)

TOSHA STEELE,, being duly sworn, deposes and says:

1. I am a named plaintiff in this case.
2. I am 31 years old and a resident of Geneva, New York. I am currently in jail at the Ontario County Jail, in Canandaigua, New York.
3. At the time this case was filed I had a pending criminal case in Ontario County Court. I was represented in that case by a lawyer assigned to me by Ontario County's Assigned Counsel Program.
4. On July 25, 2007, I was arrested and charged with criminal possession of a controlled substance in the third degree, which is a felony. When I was arrested I was told that if I was convicted I could go to prison for up to 25 years and pay a fine of \$30,000. This scared me

because I have three kids and I am a provider for my family. I didn't know what would happen to them if I went to jail.

5. The first time I met my lawyer was immediately before a court appearance. He told me what I was being charged with and we talked for about five to ten minutes in the holding area outside of the courtroom. All the other inmates could hear what we were saying. During that meeting we never talked about the facts of the case and we didn't talk about possible defenses to the charge. He never even asked for my version of the story.

6. I didn't see my lawyer again until I was brought to court on August 20, 2007. On that day, without asking me, my lawyer waived my right to a preliminary hearing. At the time, I was confused about what had happened; but, my lawyer didn't explain it to me. We had never discussed waiving anything. The first time I heard about it was when he told the judge that I was waiving my hearing. When I asked him what was going on he whispered something to me that I couldn't understand while we were still standing in front of the judge. I still don't know why I waived that hearing.

7. I appeared in court again on October 5, 2007 at that point I had been in jail for over two months. I don't know why I was taken to court on that day. When I arrived I waited but my lawyer never showed up so the court date had to be adjourned. I didn't even know I had a court date that day because my lawyer never told me. I only found out about the appearance on the morning of October 5 when during a conversation with an officer at the jail he mentioned that I was going to court that day.

8. I wanted to know why my lawyer never came to court on October 5; but, up until that point he had never visited me in jail. In fact, I had only seen him a couple of times and each time was immediately before or during a court appearance. So, I decided I should try to


call him. When I finally got through to him he only talked to me for a few minutes.

9. Recently I went to court again but I can't remember the exact date. I waited and waited for my attorney to show up. The judge told me that they were going to take me back to the jail because my attorney wasn't coming that day. But later he finally did show up. When he got there he had my case adjourned and then we talked outside the courtroom. He never even told me why he was late that day.

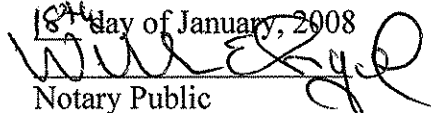
10. Right around that time my lawyer asked me if I would take a plea of six years. But, he didn't tell me about the offer until right before we were going in front of the judge. I hadn't had any time to discuss it with him and that made me very uncomfortable. My lawyer had the case adjourned so I could have some time to think about taking the plea.

11. I was upset because I knew my co-defendant had been sentenced to one year and four months and since he was going to participate in an alternative drug treatment program he was only going to have to serve six months. It didn't seem fair that I was going to have to go to prison for six years especially because my co-defendant had confessed and specifically told the judge and the D.A. that the drugs from my drug possession charge belonged to him and that he was planning to sell them, not me. I told my attorney about all of this but it didn't help my case at all.

12. I pled guilty because my lawyer told me it was the best deal that I could get and I didn't want to risk going to trial and being separated from my children for 25 years. I was sentenced on January 16, 2008 and I am currently waiting to be transferred to prison.


Tosha Steele

Sworn to before me on this
18th day of January, 2008


Notary Public

WILLIAM E. SIGEL
Notary Public, State of New York
Ontario County Reg. #01SI6174650
Commission Expires 9/24/ 2011