

AFFIDAVIT

STATE OF LOUISIANA §
PARISH OF ORLEANS §

BEFORE ME, the undersigned Notary Public, personally came and appeared:
THOMAS FRAMPTON, DOB: 08/10/1983, who after being duly sworn did depose
and state the following:

1. My name is Thomas Frampton. I graduated law school in 2012. I am an attorney at the Orleans Public Defenders office, and licensed to practice law in the State of Louisiana (Bar No. 35775). After law school, I completed federal clerkships with Judge Diane P. Wood (7th Cir.) and Senior Judge Jack B. Weinstein (E.D.N.Y.). I began working at the Orleans Public Defenders upon completion of my clerkships in 2014. Since January 1, 2015, I have handled 319 misdemeanor cases, 179 felony cases, and 127 revocations. I have received 284 new misdemeanors, 139 new felonies, and 121 revocation cases. My current caseload includes 149 felonies, 52 misdemeanors, and 36 revocations.
2. Of those current felony clients approximately 60 are in jail. Most are housed at the Orleans Parish Prison complex. Visitation at the Orleans Parish Prison complex is extremely time consuming. I often wait a jail for hours just to see one client because there are not enough visitation rooms and because it takes a very long time for sheriff's deputies to transport inmates from their cells to the visitation rooms. On several occasions, I waited for hours and still left without seeing my clients because I have too much other work to do and there are still other attorneys ahead of me in line to see their clients. This is true even when I call ahead to try to schedule my visits: the deputies often have no record that I called or say that the rooms are full anyway so they cannot honor my scheduled visit.
3. I have had multiple pre-trial clients housed in East Carroll or Franklin Parishes. Each of those parishes is a four-hour drive away. I have never visited a client in either East Carroll or Franklin Parish because I do not have time to make an eight hour round trip. On several occasions, I had planned on having important conversations with these clients in court, only to find that they were not brought for their scheduled court dates. One of these clients, an 18-year-old, was held for 60 days on a probation revocation because he

wasn't brought to Orleans Parish for his court date. I had no access to him the entire time, and he suffers from mental health problems.

4. I try not to speak to my clients on the phone because the calls are recorded and provided to the prosecutors. I learned this lesson the hard way: in one of my first trials, the critical evidence presented against my client consisted of statements made during a recorded jail call between me and my client. Regardless, I cannot call my clients, so I can only receive calls if my client calls me and I happen to be at my desk, which is rare. I regularly have hundreds of blank messages on my office phone from clients who try, unsuccessfully, to reach me via telephone while I am in court. When I am able to answer, my clients are often frustrated that I am unwilling to discuss their cases with them and also unable to meet with them in person due to time constraints.
5. I am a "Level 3" attorney, meaning the majority of my new clients are charged with burglary, drug distribution or possession with intent to distribute drugs, firearms charges, or aggravated batteries. I have a very high number of "Level 2" clients as well, charged with drug distribution and theft and unauthorized use of motor vehicles. The vast majority of my clients are facing decades in prison if found guilty at trial.
6. Of my 149 felony cases, 22 are quads and at least 3 are lifers (see Affidavit of Derwyn Bunton for explanation of these terms). Another 46 are double- and triple-bills, meaning they have one or two prior felony convictions. These numbers are probably low because I have not had time to thoroughly review my clients' criminal histories.
7. It is office policy that I see clients within 48 hours of appointment, which happens at first appearances. Because of my caseload, it usually takes me a week, and sometimes two to three weeks before I can meet new clients in jail for the first time. My backlog of cases is such that I have not been able to meet with a client within 48 hours of appointment in the past six weeks.
8. I have received 10 new felony cases in the past two weeks; most of those new clients did not bond out of jail. I did not visit any of them within 48 hours of arrest. I was only able to visit two of those new clients within the past week (because I was meeting with clients who had been incarcerated for even longer, and because I was preparing for a trial), but I was unable to do any follow up work on their cases, including phone calls and investigation requests. I did not file a bond reduction motion for any of those clients. Of

these 10 new felony cases, 7 are still in jail. Their charges are: burglary, attempted simple burglary, illegal carrying of a weapon with a controlled dangerous substance, cruelty to a juvenile, possession of cocaine, distribution of false drugs, and distribution of cocaine. In one of these 10 new cases, I pleaded the client guilty at his arraignment, the first time I met him. He was charged with second degree battery. I saw him three days later in the elevator at our office building and didn't recognize him until he said hello. His sentence will involve jail time because he will have to report to "weekend warrior."

9. I have closed 17 felony cases in the last two months. Those clients have pled to a total of seven and half years in jail. Three of those pled within a month of their arraignment. Of those 17, I had not written an investigation request in 15 of the cases.
10. In most cases, I do not have time to visit clients more than once between arrest and a substantive court hearing like a hearing on motions. This makes it very difficult to develop rapport with my clients or get them to trust me. A trusting relationship is necessary for my clients to be willing to confide in me with what are often crucial pieces of information about their case. Further, with the number of cases I have, I have trouble keeping straight the individual details of each client's case.
11. When I do visit a client at jail, I am generally visiting multiple clients during the same visitation period. During my visits, I am always mindful that I have other clients to see and other work to do, so I cannot spend very much time with any one client. Instead, I get just the most basic information and convey the most basic information about the case before moving on to the next client. A typical jail visit would last 45 minutes.
12. If my client is out on bond, it is rare that I meet with them before arraignment. I have to prioritize my jailed clients. Therefore, it is very rare that I investigate those cases prior to arraignment or try to arrange pre-acceptance dispositions for those cases.
13. In the majority of cases, I plead clients guilty without any investigation being done in the case. I am forced to triage my cases, and often do not ask investigators to investigate cases that seem likely to plead. I have dozens of clients for whom I have not written investigation requests, including many who are multiple offenders.
14. I very rarely would be able to investigate or request investigation into potentially exculpatory videos that get overwritten within one to two weeks of an alleged offense. I currently have several cases where critical, exculpatory video evidence is likely lost

because I was unable to visit my client – let alone complete an investigation request – within two weeks of their arrest.

15. Oftentimes the prosecution will make plea offers on the day of arraignment. In those cases, I often have not seen the police report or will be handed the police report at the same time as the offer is given. Usually, everything I know about the case until that point will have come from the “gist” that the police write to make out probable cause for arrest. Because of this, I generally have to try to advise clients about whether or not to plead guilty without having done any independent investigation or having reviewed the full police report.
16. On an average day, I spend more than four hours in court in the morning, and often several hours in court in the afternoon. It is not unusual for me to spend six or seven hours in a court a day. I begin work before 8AM most weekdays; finish work past 8PM most weekdays; and work eight to sixteen hours on average during weekends. In August I averaged 52 hours a week even though I took one week off because I worked 70-80 hours weeks when I was not on vacation. In July and September I averaged 66 hour weeks.
17. When I am in court, I am often the “section attorney” assigned to one section of the court. That means I have to stand in on other attorneys’ arraignments, assist people who have come to court unrepresented for probation status hearings, handle revocation hearings, and assist people arrested on a warrant for failing to pay fines and fees. I also have to spend a lot of time trying to communicate with my colleagues, the other public defenders who have cases set in that section of court, to get information from them about what date their case should be set for next or when they might be able to come to court to handle their matter. As a section attorney, I have very little time to do anything other than actively respond and react to what is happening in court.
18. When I am section attorney, I also usually have many matters set in other sections of court. On a typical day, I will have matters set in four to six sections of court. One day earlier this month, I had matters set in eleven sections of court (including substantive motions hearings in six sections). In order to leave the section I am covering to go to another section, I need to wait for another attorney to come and fill in for me so I can leave. That means when I am actually able to leave court, I have to rush from the section

to section to handle my matters. My interactions with my clients during section coverage days are usually extremely rushed because judges, who have been waiting for my arrival, often call my cases right away upon my entrance into the section. Often, judges are angry and berate me for not being present when they called the case earlier. This damages my relationship with my clients, who see me as incompetent because I am getting yelled at by the judge. Two weeks ago, the judge of one section found me in another section where I was the "section attorney," physically escorted me back to his courtroom, and had me immediately begin trial (without having the opportunity to talk with my client, contact my supervisor, confirm the presence of necessary witnesses, or set up audio-video equipment that was necessary for trial).

19. I cannot have confidential conversations with my clients in court because they are sitting next to other inmates on the bench. Usually, I can just briefly tell my clients what is happening on their case procedurally, but cannot give actual meaningful updates because of the lack of privacy and because I often have not had time to do much work on the case.
20. Judges often threaten to waive my hearings because I am not present when the case is called because I need to be in so many places at once. That also damages my relationship with my clients. For instance, last week I was called to a section for an arraignment for an incarcerated client. I reported to the courtroom within 8 minutes of being notified that my presence was needed, but my client had already been "sent down." The client was told he would have to wait, without a bond on one of his charges, for one month before the judge would revisit the matter. I was able to get the client put on the docket for the following week, but the experience has significantly soured my relationship with my client.
21. In most weeks I have 10 to 15 motions hearings set and 1 to 3 trials. I rarely have time to prepare for my motions hearings, , where 1 to 2 police officers will testify, more than a day before they are set. I almost never visit the crime scenes before motions or before guilty pleas. I would only visit the crime scene if it appears the case is going to trial, and even then I often would not have time. Similarly, I almost never view the evidence in a case before a suppression hearing about that evidence or before a guilty plea. Again, at best I would view it if the case is going to trial.

22. If a case is going to trial, I often cannot start working on it until the weekend before it is set. That means I do not have time to subpoena witnesses I need to testify of get records that could help my client's case.
23. I have 14 trials set in the next month. I have dozens of substantive evidentiary hearings set between now and the end of January. Most of those hearings are hearings on motions where officers will testify to probable cause or issues surrounding the suppression of evidence, statements, or identifications. These numbers are low for a typical two month stretch because of Thanksgiving and winter holidays, and because the courthouse does not have jurors available between the end of the second week of December and the New Year.
24. In one upcoming trial, set for December 2, my client is charged with a serious felony. He is facing 10 to 40 years without the opportunity for early release as a second time habitual offender. I would like to take a supervisory writ (interlocutory appeal) in the case, but I haven't received the transcript yet and the return date (deadline) for the writ is November 20. Other than that, I have done no trial prep on his case. My client has mental health problems and was found incompetent for 9 months. He is very frustrated with me because I have only visited him twice. He has written me several letters about plea deals, but I have no way to communicate with him short of a jail visit because his jail calls are recorded and turned over to the prosecution. In another trial, set for December 3, my client is charged with two felony counts. As a second offender, his exposure is 2.5 to 10 years without the opportunity for early release. I have not had time to write an investigation request for his case.
25. I often do not have the opportunity to file discovery motions or subpoenas until it is too late to have them be effective.
26. I rarely have the opportunity to write original motions addressing the legal issues in my clients' cases. In most cases the most I can do is pull form motions written by other attorneys on different cases and cut and paste them into my own motions. I often spot issues that need follow up research in my cases but almost never have time to do it.
27. I rely on other lawyers in my office to let me know about case law developments or changes to statutes. I have very little time to do any of that on my own.


28. I almost never have time to consider whether hiring or consulting with an expert would be helpful in a given case.

29. I do not believe I am providing effective representation to the majority of my clients. Instead, I feel like a case processor, not an attorney. I spend my days pleading people guilty in the blind, not challenging the state's evidence in court or investigating the claims made by the police.

That these statements are true and correct to the best of my knowledge, information and belief.


THOMAS FRAMPTON

SWORN TO AND SUBSCRIBED TO BEFORE ME, NOTARY, THIS 20 DAY OF NOVEMBER 2015.


NOTARY PUBLIC