

January 25, 2013

Senator Marco Rubio
Attn: Leonard Collins, General Counsel
317 Hart Senate Office Building
Washington, DC 20510

RE: The Honorable Judge William Thomas

Dear Senator Rubio:

It is with pleasure that I write you about my experience practicing before the Honorable Judge William Thomas. I am an Assistant State Attorney currently assigned to the Human Trafficking Unit of the Miami Dade State Attorney's Office. I was assigned as the "A" prosecutor in Judge Thomas' Division from February 2012 until earlier this month.

I tried numerous cases and litigated many issues in front of Judge Thomas and I would be happy to share my broader thoughts; however in this letter I would like to share the details of one recent experience:

On January 16, 2013, Judge Thomas held a Sentencing Hearing for a twenty-six year old man who had plead guilty in two cases: 1) possession of cocaine and 2) leaving the scene of an accident with death, leaving the scene of an accident with seriously bodily injury, and unknowingly driving with a suspended sentence. The defendant had driven into two cyclists on the Rickenbacker Causeway at 5:45am on February 15, 2012. The defendant ultimately surrendered to the City of Miami Police later that evening, too late for any alcohol testing to be performed.

Prior to the accident, the defendant had been in Drug Court for the cocaine charge. He had one other dismissed possession of marijuana charge from 2009. According to the State's sentencing guidelines, the young man scored 22.6 months in state prison, and was facing up to 35 years.

The courtroom was packed and the Hearing was incredibly emotional. The man killed was Aaron Cohen, a pillar of the community, an active cyclist and a husband with two young children. Members of his family called for Judge Thomas to sentence the defendant to the maximum to send a message to the community. The State recommended that the defendant be sentenced to six years in state prison, followed by five years of probation. Defense counsel asked for his client to be immediately released to community control.

In the media, the defendant had been called a drug addict and it was widely assumed that he was intoxicated the morning he hit and killed Aaron Cohen. Unfortunately, the State could not prove he was driving under the influence and he was not charged with that offense. At a Sentencing Hearing, Florida Rule of Criminal Procedure 3.720(b) states that, "the court shall entertain submissions and evidence by the parties that are relevant to the sentence." This rule allowed Judge Thomas to hear evidence and argument that would otherwise not be admissible at Trial. The State was allowed to present the fact that anonymous callers reported that the defendant had been partying in Coconut Grove immediately prior to getting in his car and driving home to Key Biscayne. Defense counsel testified on his client's behalf telling the Court that the defendant called him within an hour of the accident and asked him to arrange for his surrender; it was only the defense counsel's busy schedule that delayed that surrender.

In support of the defendant's request to be released from custody to serve a non-jail sentence, the defendant's physician testified that he had a rare congenital immune deficiency that was so severe that the defendant's life was in danger if he did not have access to immediate, intense medical treatment. An expert from the Florida prison system testified that the defendant would not receive the necessary medical attention in the Florida prison health system.

Judge Thomas listened patiently to both sides, asking his own questions of the witnesses and counsel. He allowed family members to share memories of their loved ones and explain how this case had affected all of their lives. The family of Aaron Cohen begged for justice. The defendant's family begged for mercy.

This is the type of case that prosecutors, defense attorneys and judges dread; an innocent life was taken too soon, another young man committed a cowardly criminal act in leaving the scene; however there was no proof that the defendant had driven under the influence or recklessly, legally it was an accident.

Judge Thomas had the unenviable task of meting out a just punishment for the defendant that served the victim's family, the community and addressed the actual crime charged. I can only imagine how difficult it must be to make such a decision when faced with these heart-wrenching circumstances, a courtroom packed with friends and family, and the media looking on.

Ultimately, Judge Thomas found that the defendant's health condition provided him with a legal reason to downward depart from the guidelines. However, the Judge declined to depart and he sentenced the defendant to 22.6 months in state prison to be followed by two years of community control (house arrest) with random drug testing. The Judge then gave the defendant the option to serve his time locally so that he could be in close proximity to his family, lawyer, and treating physician. To legally sentence the defendant to serve his time locally, the Judge had to convert the 22.6 month sentence to 364 days in the Dade County Jail without any credit for the eleven months that the defendant had already served pending sentencing. Practically, the defendant will serve 23 months in the local jail, followed by two years on house arrest. It should be noted that the media misreported that the Judge departed from the sentencing guidelines and that the defendant would only serve 364 days in jail.

While the sentence was ultimately disappointing to the State and the victim's family, Judge Thomas legally sentenced the defendant after hearing from all parties and conducting the Sentencing Hearing with compassion and careful judgment.

Please feel free to contact me with any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jane Anderson', written in a cursive style.

Jane Anderson