

**STATE OF MICHIGAN**  
**IN THE [REDACTED] COURT FOR [REDACTED] COUNTY**

State of Michigan,

Plaintiff,

Case No. [REDACTED]

Vs.

HON.: [REDACTED]

[REDACTED]  
Defendant.

Laurence H. Margolis (P69635)  
*Margolis Law P.C.*  
Attorney for Defendant  
214 S. Main St. Ste. 202  
Ann Arbor, MI. 48104  
(734) 994-9590

**MOTION TO WITHDRAW PLEA AND VACATE CONVICTION**  
**PURSUANT TO MCR 6.310(C)**

NOW COMES, the Defendant, [REDACTED] by and through his undersigned counsel, and hereby moves to withdraw his plea, within 6 months sentence pursuant to MCL 6.310(C)<sup>1</sup>, hereby based, in part, on the following:

1. The Defendant is a 19-year-old first time offender. He is originally from [REDACTED] but has lived in the United States since 2004, coming at the age of 7.
2. [REDACTED] gained Permanent Resident status when his mother married [REDACTED] an American citizen from [REDACTED] Michigan.

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<sup>1</sup> MCR 6.310(C) states that a “defendant may file a motion to withdraw the plea within 6 months after sentence..... If the trial court determines that there was an error in the plea proceeding that would entitle the defendant to have the plea set aside, the court must give the advice or make the inquiries necessary to rectify the error and then give the defendant the opportunity to elect to allow the plea and sentence to stand or to withdraw the plea.”

3. On or about January [REDACTED] was arrested after he fled from a stolen vehicle in which he was a passenger in [REDACTED].
4. On or about May [REDACTED], Defendant accepted a plea agreement in which he pled guilty to six mostly theft-related felonies.
5. Defendant at the time was represented by [REDACTED] and the State of Michigan was represented by the [REDACTED].  
[REDACTED] The Honorable [REDACTED] conducted the proceeding.
6. As a result of pleading guilty, [REDACTED] is currently in [REDACTED] Correctional Facility serving 3-10 years.
7. [REDACTED] received a longer sentence than any of his four co-defendants, who were charged in relation to substantially the same criminal activity. His codefendant [REDACTED] who is also nineteen years old, pled guilty to all the same offenses as [REDACTED] and two additional felonies but received a minimum sentence of only one year and eleven months.
8. Unbeknownst to [REDACTED] his attorney was concurrently representing one of his codefendants, [REDACTED], in simultaneous plea negotiations with the government.
9. [REDACTED] pled guilty to three firearm and assault-related felonies and received a probationary sentence under the Holmes Youthful Trainee Act.
10. Former counsel undisclosed concurrent representation of a co-defendant constituted both a violation of MPRC 1.7 and an actual conflict of interest which adversely affected his performance when he negotiated [REDACTED] plea.

11. As a result of his plea, [REDACTED] is facing deportation to [REDACTED].
12. Since [REDACTED] is not married and has no U.S. citizen children, he is not eligible to apply for Cancellation of Removal in the Immigration court proceeding and, despite living in the US for 13 of his 19 years, he has no reasonable defense to his deportation.
13. [REDACTED] was not aware that his plea and conviction would have the **specific consequence of having his status revoked and leaving him with no defense to a federal deportation case.**
14. [REDACTED] did not advise his client that pleading guilty to two or more Crimes Involving Moral Turpitude (CIMTs) would subject him to automatic loss of his Permanent Resident status and guaranteed deportation to Thailand.
15. Had [REDACTED] been advised of, and actually understood, the guaranteed consequences to his plea, he would have insisted his attorney seek an alternative plea, or, if necessary, take the matter to trial.
16. Since [REDACTED] was not fully advised of the direct and immediate consequences of this plea, his plea was unknowing and unintelligent, and therefore involuntary under the Fifth and Sixth Amendments of the United States Constitution, *Padilla v. Kentucky*, 130 U.S. 1473 (2010) and *Lafler v. Cooper*, 132 S.Ct. 1376 (2012).
17. [REDACTED] brings this Motion to Withdraw his Plea alleging the following legal and factual issues:
  - A. [REDACTED] **PLEA WAS NOT KNOWINGLY, VOLUNTARILY OR INTELLIGENTLY ENTERED.**
  - B. **COUNSEL'S ASSISTANCE WAS NOT IN COMPLIANCE UNDER *PADILLA V. KENTUCKY* AND DEFENDANT'S SIXTH AMENDMENT RIGHTS.**

C. [REDACTED] **CONSTITUTIONAL RIGHT TO CONFLICT FREE COUNSEL WAS FLAGRANTLY VIOLATED WHEN HIS ATTORNEY CONCURRENTLY REPRESENTED HIS CO-DEFENDANT WITHOUT [REDACTED] KNOWLEDGE OR PERMISSION.**

WHEREFORE, for these reasons, [REDACTED] humbly requests from this court that he is worthy of this Court's reconsideration of his plea, and prays that the Court:

- A. Permit Defendant to withdraw his plea;
- B. If deemed necessary, Grant a hearing on this matter, including an evidentiary hearing, on any contested issues of fact;
- C. Accept a re-negotiated plea;
- D. Grant such other further relief as the Court deems just and efficient under the circumstances.

Respectfully submitted,

By: \_\_\_\_\_  
Laurence H. Margolis (P69635)  
*Margolis Law, P.C.*

Date: [REDACTED]

**CERTIFICATE OF SERVICE**

I, Laurence H. Margolis, attorney for [REDACTED], do hereby certify that I have on this day delivered by facsimile and hand delivery, a true and correct copy of the Defendant's Motion to Withdraw Plea and Vacate Conviction and this Certificate of Service to

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

This the [REDACTED]

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Laurence H. Margolis (P69635)  
Attorney for Defendant