

OFFICE OF THE DISTRICT ATTORNEY
OF ONONDAGA COUNTY
SYRACUSE, NEW YORK 13202

WILLIAM J. FITZPATRICK
DISTRICT ATTORNEY

DATE: November 15, 2012

TO: PRESIDING JUDGE

COURT SYRACUSE CITY COURT

PEOPLE V. **JAMES MONTO**

PRACTIS # 2012CR005165

DR # 11-516262

CHARGE(S): TAX SECTION 1804; 175.10 FBR 1

Please be advised that our office has reviewed the charge(s) against the above named defendant. In view of the facts and circumstances of this case, our office recommends the following disposition in the interests of justice:

- based upon the defendant's plea, as noted below, and waiver of appeal; we recommend a reduction of the felony charge(s) to: TAX SECTION 1801; 175.05 FBR 2
- a reduction of the felony charge(s) to:

We are prepared to proceed with the charge(s), as amended, and other misdemeanor charge(s) arising from the incident, if any.

The defendant is a 38 year old male with no criminal record. From 2009-2011, this defendant, while employed by the City of Syracuse School District falsified documentation that was ultimately forwarded to the tax department, which incorrectly purported that the school district withheld over \$26,000.00 from his wages for tax purposes. By doing this, the defendant was able to avoid a tax liability which was owed to the New York State Department of Taxation and Finance in the amount of \$12,161.00.

In light of the defendant's lack of record, the People move to amend as noted above contingent on the defendant pleading guilty to 110-175.05 (Att. FBR 2) in full satisfaction of all charges. It is agreed that the defendant will pay the amount of \$12,161.00 to the Department of Taxation and Finance as part of this negotiated disposition. It is agreed that the defendant will be sentenced to a one year term of probation. If, however, it is shown at the time of sentencing that the defendant has made full restitution, the People would consent to a one year conditional discharge. This is a negotiated disposition.

TO COURT: Should this matter not be reduced and or adjudicated as illustrated within 60 days, please contact Senior Assistant District Attorney Robert J. DeMarco, so as the delaying issue may be addressed by this office.

- The People announce ready for trial on the amended charge(s) and any other charge(s) and ask that this Notice of Readiness be placed in the Court's record forthwith.

Cc: Eric B. Jeschke, Esq.

Respectfully submitted,


Robert J. DeMarco
SR. ASSISTANT DISTRICT ATTORNEY

White - Court Copy Yellow - Return to District Attorney Pink - Defense Attorney
Gold - File Copy

DA FORM 406 - REVISED 5/01

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