

MY STORY...

Malicious prosecution is prominent in today's society. I can attest and justify to the destruction malicious prosecution has on an individual's life, as I am a **VICTIM!** In the year 2000 I was involved in a newly acquired relationship and had false charges brought against me. At that time two separate sets of charges that were ten months apart. Young of age, I couldn't afford an attorney and didn't know the laws. The first set of charges my ex-girlfriend stated, "You better plead guilty because my father is a cop and could make your life miserable." The second set of charges I was held over in House of Corrections awaiting trial.

On February 11, 2000, I was charged with several crimes. My ex-girlfriend told the police I tore the phone off the wall and smashed it on the floor, knocked over a lamp and it smashed on the floor, threw her down on the bed, twisted her wrist, removed an engagement ring from her finger, forced her to give me a bracelet she was wearing and took several items. The police report states, "I was at the residence for 1 1/2 hours and that I cleaned up the glass from the broken light bulb." She packed a duffle bag with belongings I had given her and told me she no longer wanted them, so I took them. I didn't steal anything! In her written statement, she states, "After he left my house I got my cell phone from my truck." **If you compare the police report and her written affidavit, you'll find she told the police THREE different versions of what occurred.** The police at the scene never filed a report of any observed property damage, personal injury, cuts, bruises, scrapes, broken bones, need for medical treatment or any hospital transport. I never was questioned or asked to give a statement. I was arrested on hearsay, NOT probable cause. **My bail was denied because the police officer told the bail commissioner I had a previous restraining order on my criminal record, which was NOT TRUE!**

On December 5, 2000, more charges were brought against me, one being assault & battery with a dangerous weapon. I was accused of **beating** a friend of my ex-girlfriend with the **hinged front house door**. My ex-girlfriend sat on the couch at the time of the incident and told the police, she was so terrified she could not get up to phone the police. She also claimed, I was yelling at her to come outside and called her a fucking bitch. My ex-girlfriend's friend told police I was hollering for my ex-girlfriend to come outside, but never mentioned in the police report me calling my ex a fucking bitch. Note: my ex-girlfriend lived in an occupied multi-unit condo complex. If this was true, someone would have heard the commotion and called 911. The police report states, "My ex-girlfriend phoned the police after I left." I left the residence and drove from Harwich to Provincetown where I was residing. It is a 45 minute drive passing through 5 other towns and none of those police departments attempted to follow or stop me. When I arrived in my home town, I was pulled over and arrested. **If you read the statement from each victim and officer, inconsistencies will be obvious. Again,** the police at the scene never filed a report of any observed property damage, personal injury, cuts, bruises, scrapes, broken bones, need for medical treatment or any hospital transport. Again, I wasn't questioned or asked to give a statement. In transport from Provincetown to the Harwich Police Department, I voluntarily gave a brief explanation of what occurred. Innocent until proven guilty, NOT TRUE! Your guilty then you have to prove you're innocent.

On December 20, 2000, I was transported from Barnstable House of Correction to Orleans District Court and placed in a holding cell. I was appointed an elderly female attorney who advised me, I wouldn't stand a chance in the court room with two females against a male. The attorney stated, "To avoid any hassle and be released today from the House of Correction, you should plead out." I told her I wouldn't plead guilty to things I didn't do. The attorney said she was going to speak with someone and would be right back. The attorney returned later with paper work and said that I wasn't sentenced to the House of Correction yet. If I wanted to be released now while awaiting trial, I should sign a release form and the court will accept the 19 days at the House of Correction as time served. **I was unaware and never advised at anytime by my attorney or the judge that I was giving up my rights to a trial, the right to confront one's accusers and the privilege against self-incrimination. I feel I was treated unfairly, misled and was coerced into self incrimination.**

On January 3, 2001, my ex-girlfriend called the police and stated, "She thought she saw me outside her back sliding door." At the time of this incident I wasn't on Cape Cod. I was in Salem, Ma at my brother's house. I was then charged with violating a protective order and notified to appear in court. I was present on the court date but my ex-girlfriend failed to appear, **so the judge dismissed the charge. This was the same person who claimed she was in fear of her life.**

I later realized, **I never received the immigration warning and plea colloquy from the judge. In addition, the court documents contained several errors.** This explains why I wasn't advised properly and was misled into signing documents I didn't understand. I reopened the case June 7, 2004 under new evidence with a notarized letter from my ex-girlfriend stating, "That an incident that occurred on December 5, 2000 involving Larry Flores did not entail assault & battery with a dangerous weapon (door)." The judge states, "in regards to the affidavit by the victim, it's not uncommon for a victim to be ambivalent and to recant a version told to the authorities at the time of the incident and counsel who represents Mr. Flores did not present the allegedly recanting witness. In opposition to the motion, that there was sufficient other corroborating evidence to sustain the conviction. **While not specific, such corroborating evidence presumably might be a spontaneous declaration or remark within the purview of the well established hearsay exception.**" The motion was denied. This is NOT TRUE! There wasn't any evidence. The police at the scene never filed a report of any observed property damage, personal injury, cuts, bruises, scrapes, broken bones, need for medical treatment or hospital transport.

On September 14, 2004, I filed a motion to set aside the prior conviction based on unconstitutional entry of a guilty plea regarding the immigration warning and the plea colloquy I never received. The judge stated, "failure to give the alien warnings are significant only if the defendant has suffered, or is about to suffer, the consequences enumerated, namely, deportation, denial of naturalization or refusal to admit to the United States which none of these are relevant here. **"While I was the judge who accepted the plea and imposed sentence, I do NOT have any Specific memory of what colloquy was given in this particular instance, it's my general and usual policy to ask the defendant."** The motion was denied. At a minimum, the record must demonstrate that the judge advised the defendant that, in pleading guilty or in admitting to sufficient facts, he waives three fundamental constitutional rights; the right to a jury trial, the right to confront witnesses, and the privilege against self incrimination.

On April 14, 2005, I appealed the decision of denial to the Massachusetts Appeals Court. The appeals court stated, "That it was not erroneous for the judge to rely on his usual practice on reconstructing the record of the plea colloquy and to conclude that there was no basis to set aside the plea! As to the defendants particular claim that he didn't receive the immigration warnings, the judge correctly ruled that any such deficiency **is irrelevant where the defendant failed to demonstrate that he was an alien who may suffer the immigration consequences."** The motion was denied. The court shall NOT accept a plea of guilty, a plea of nolo contendere, or admission to sufficient facts unless; the court advises the defendant of the immigration warning and a complete plea colloquy. **The defendant SHALL NOT be required at the time of the plea to disclose to the court his legal status in the United States.** As matter of constitutional due process a guilty plea should not be accepted, and if accepted must be later set aside, unless the record shows affirmatively that the defendant entered the plea **freely and understandingly.**

In summary, several charges were brought against me in the year 2000. **Wrongfully charged with crimes I didn't commit, I lost 16 years of my life I'll never get back!!** My personal character was destroyed by someone's **lies and need for revenge.** The justice system should fully investigate and take evidence into consideration prior to making decisions that destroy lives forever. Liberty and Justice for some, NOT for all.

I think violating a U.S. citizen's rights by charging them with crimes they didn't commit is reckless behavior by the justice system. My case was prosecuted based on hearsay and **malicious prosecution, NOT facts.** I feel I was treated unfairly because the victim's dad was a former Massachusetts State Police Trooper.

I obtained my Firearms Identification Card in 1985 and License To Carry in 1991, but unfortunately lost my right to bear arms due to malicious prosecution in the year 2000. **I never threatened anyone with a firearm, nor had any firearm violations.** I owned and operated a Massachusetts State Police licensed security business for 4 years, but it was taken away due to these false charges. **I joined the Provincetown Vol. Fire Department in 1985. I wanted to help people and make a difference in their lives.** I was a member of the fire dept. for 22yrs, serving 1yr as lieutenant and the last 4yrs as captain of Engine Co.4. **In those 22yrs I saved a lot of people lives, homes, pets and was willing to sacrifice my life at no cost.** I was the president of the Firemen's Association, taught fire prevention, organized fire department functions, participated in fund raisers, trained new recruits for the fire academy and played Santa for the children and elderly. I have an excellent driving record and never did drugs nor tried them. **My devotion to the good of the community and those in it, should say a lot about my character. Everyone should be treated fairly and equal.**

On June 18, 2008, I obtained a firearms safety certificate. On September 26, 2008, I applied for my License To Carry but was denied by the local Police Department who issued me a letter stating, "This licensing authority has determined that **you are not a suitable person to be issued such a license.**" On October 26, 2009, I applied for a Firearms Identification Card and was told by the local Police Department, they **would be able** to issue it to me. I again completed the application process (photo, fingerprints, processing fee) and waited 14 weeks only to be **denied.** On February 12, 2010, I received a letter stating, "The reason for **denial was because the crimes fall under a violent crime.**" Both times I applied, the state charged \$100 dollar application fee plus \$100 for the firearms course, all non-refundable.

I think it's completely unfair to give the state of Massachusetts \$300 and not get anything in return. I wasn't asking for a third or fourth chance, I just wanted back what was wrongfully taken from me. It's a tough pill to swallow after knowing all the good you've done to **help** people. I'm not perfect, no one is, we **ALL** make mistakes. I made some bad decisions in the year 2000, but don't deserve to be classified like Charles Manson for the rest of my life.

My case was heard in district court and had no danger to society hearing or requirement to attend anger management. Since the alleged crimes were not prosecuted as statutory felonies, I was not sentenced to serve any time in a state prison.

Factual evidence proves neither person was a victim of a violent crime. The police reports show no evidence to support any crime was committed. As a result of the improper use of the justice system, it is evident I have no rights as a U.S. citizen. This is completely unjust and unfair. Not everyone is a criminal! Let's remember, Nobody is above the law, NOT even the justice system.

Court Errors:

1) Chapter 265 Section 15A. Assault & battery with dangerous weapon; victim sixty or older; the person was **28** yrs old not **60**, the correct charge should have been **Chapter 265 Section 15A-b victim under sixty. The subsections are for different crimes committed which have their own fine and punishment.**

2) Chapter 266: Section 12. Fire alarm, engine or apparatus; injury during fire to prevent alarm or extinction of fire. **This crime never occurred. It is a fabricated charge of inconsequential relevance to the case. It is only a spiteful and vengeful attempt to annihilate any chance I had to become a career firefighter. It's illegal to prosecute someone on concocted charges. The judge checked the guilty box to this chapter and section.**

3) **In absence of the immigration warning and plea colloquy from the judge for the second set of charges Docket No. 20026 CR 2673** the judge states, "While I was the judge who accepted the plea and imposed sentence, **I do NOT have any Specific memory of what colloquy was given in this particular instance.**" The tape recording of my plea colloquy was destroyed and no longer exists.

4) Defendant's waiver of rights was **signed incorrectly by the attorney and myself, as well as the judge's signature was forged.** Any document signed incorrectly is invalid.

5) The victim stated in the police report, "The relationship was over by her choice." Yet, I was charged with larceny over \$250 for my own belongings (one of the items being the **diamond ring**). If the victim didn't want the relationship, why would she want the ring? **"It is generally held that an engagement ring is in the nature of a pledge, given on the implied condition that the marriage shall take place. If the contract to marry is terminated without fault on the part of the donor he may recover the ring."** Thus, **police should not have charged me with stealing this ring! As it was NOT a gift but a contract.**

6) Chapter 265 Section 19. Robbery by unarmed person; victim sixty or older; the person was **28** yrs old not **60**, the correct charge should have been **Chapter 265 Section 19-b person under sixty.**

7) Commonwealth vs. Lawrence L. Flores, **Memorandum & Order Docket No. 200026 CR 2673** the judge wrote, "14 days to be served." Yet, on the waiver of rights it states, "19 days to be served." The judge signed off on both documents. This shows inconsistency and bad jurisprudence in the Orleans District Court.

8) **Criminal Docket 200026 CR 0271** violation of a **Protective Order Chapter 209A Section 7**, the police report submitted was **NOT signed** by the arresting officer.

9) On December 5, 2000 **Criminal Docket 200026 CR 2673** that pertains to the charges involving the assault & battery with a dangerous weapon proves **a plea colloquy was not given to me**. The judge did **NOT** check off the box “Waiver of jury trial found after colloquy.”

However, he did check off the box for “Waiver of jury trial found after colloquy” on February 11, 2000. **If it’s common practice, what happened?**

THE PLEA COLLOQUY WAS DEFECTIVE AND THE GUILTY PLEAS SHOULD BE OVERTURNED!

10) **Protective order Chapter 209A Section 7** the section of the order that insures the court the defendant received a copy of such order, was **NOT** filled out properly. Neither of the boxes were checked proving the defendant received the order.

11) On December 5, 2000, I was charged with violating the **protective order Chapter 209A Section 7 and violation of probation**. The court states, “He failed to comply with a court order to refrain to stay away and have no contact with the victim.” This was **NOT** true because #2 no contact with the plaintiff and #3 stay away from the plaintiff’s residence **was deleted from the protective order on March 16, 2000**. The court added #2 no contact with the victim on December 6, 2000, a day after the charges were brought against me. There was no evidence to support any abuse occurred, only hearsay. **The police are to assess the scene and obtain probable cause before charging someone with a crime.**

12) A judge being accused of not given the immigration warning and **plea colloquy should not hear and rule on his own case. This is a conflict of interest, the judge should recuse himself.**

13) The same judge who heard the case 4 times and denied the motions, also signed off on a docket **signed incorrectly by the attorney and myself**. Any document signed incorrectly is invalid.

14) Commonwealth vs. Lawrence L. Flores, **Memorandum & Order Docket No. 0026 CR 2673** the judge wrote, “On December 20, 2002, the defendant was represented by counsel, admitted facts sufficient to warrant a finding of guilty to assault and battery by means of a dangerous weapon.” This is incorrect; **the correct date is December 20, 2000**. This is the same judge who stated, “Although no tape exists the docket indicates that I was given a full plea colloquy by the court.”

15) On April 28, 2004, the victim signed a notarized affidavit stating, “The incident that occurred on December 5, 2000 involving Larry Flores did not entail assault & battery with a dangerous weapon (door).” The Affidavit of Commonwealth V. Lawrence L. Flores **Docket 0026 CR 2673 is dated September 14, 2004.** Yet, the victims told the private investigator, “They had no contact with Mr. Flores in the past three years.” The **date** of the victim’s Affidavit and the date of the attorney’s affidavit prove the victim is **NOT** telling the truth. **They also stated to the private investigator, “They would not voluntarily appear at any hearing and would resist any attempts to compel their presence at such hearing.”**

Massachusetts Laws:

1) A crime **punishable** by death or imprisonment in the **state prison is a felony**. All other crimes are misdemeanors.

2) The district court may impose the same penalties as the superior court for all crimes of which they have jurisdiction, except that they may not impose a sentence to the **state prison**.

3) **“Violent crime”** any crime (a) for which an individual has been sentenced to imprisonment of 1 year or more, and (b) that: (i) has as an element the use, attempted use or threatened use of physical force or a deadly weapon against the person of another; (ii) is burglary, extortion, arson or kidnapping; (iii) involves the use of explosives; or (iv) otherwise involves conduct that presents a serious risk of physical injury to another.

4) Whoever, having been previously convicted of a **violent crime** or a serious drug offense, both as defined herein, shall be **punished by imprisonment in the state prison for not less than three years nor more than 15 years**. The sentences imposed upon such persons shall not be reduced to less than the minimum, nor suspended, nor shall persons convicted under this section be eligible for probation, parole, furlough, work release or receive any deduction from such sentence for good conduct until such person shall have served the minimum number of years of such sentence.

5) **“Victim of a violent crime”** is a person who suffers personal, physical or psychological **injury** or death.

6) **“Bodily injury”** substantial impairment of the physical condition, including, but not limited to, any burn, fracture of any bone, subdural hematoma, injury to any internal organ, or any injury which occurs as the result of repeated harm to any bodily function or organ, including human skin.

7) **“Serious bodily injury”** bodily injury which results in a permanent disfigurement, protracted loss or impairment of a bodily function, limb or organ, or substantial risk of death.

8) As a matter of constitutional due process, **the court** should **NOT** accept a guilty plea, without an **affirmative** showing that the defendant acts **voluntarily and understands the consequences of his plea**. The judge needs to **ensure that the defendant is informed**, on the record and in open court of the immigration warning and the three constitutional rights which are waived by a plea of guilty: The right to a trial, the right to confront one's accusers and the privilege against self-incrimination.

9) The court shall **NOT** accept a plea of guilty, a plea of nolo contendere, or admission to sufficient facts from any defendant in any criminal proceeding **UNLESS** the court **ADVISES** such defendant of the following: "If you are not a citizen of the United States, you are hereby advised that the acceptance by this court of your plea of guilty, plea of nolo contendere, or admission to sufficient facts may have consequences of deportation, exclusion from admission to the United States, or denial of naturalization, pursuant to the laws of the United States." **The court shall advise such defendant during EVERY plea colloquy at which the defendant is proffering a plea of guilty, a plea of nolo contendere, or an admission to sufficient facts. The defendant SHALL NOT be required at the time of the plea to disclose to the court his legal status in the United States.** An advisement previously or subsequently provided the defendant during another plea colloquy **SHALL NOT** satisfy the advisement required, nor shall it be used to presume the defendant **understood** the plea of guilty, a plea of nolo contendere, or an admission to sufficient facts.

Judicial disqualification:

Recusal is the act of a judge or prosecutor being removed or excusing one's self from a legal case due to conflict of interest or other good reason. **Recusal is the process by which a judge is disqualified from hearing a case, on his or her own motion or upon the objection of either party.** Recusal is governed by federal laws and state laws and codes of ethics.

The U.S. Code provides:

"Any justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonable be questioned. He shall also disqualify himself in the following circumstances: Where he has a personal bias or prejudice concerning a party, or a personal knowledge of disputed evidentiary facts concerning the proceeding."

Probable cause:

To arrest someone, police must have what's called "probable cause." This term, which comes from the fourth amendment to the U.S. Constitution, means observable facts or evidence that would make a reasonable person believe that a crime has been or will be committed by the suspect. A person, who knowingly gives police false information in order to have someone arrested, has committed the tort of malicious prosecution. An arrest made without probable cause is a violation of citizens civil rights and has consequences. Law enforcement officers have several things to consider when making a warrantless arrest:

- Are there signs of physical abuse?
- Were there witnesses?
- Is it recent?
- Was the victim assaulted by the alleged suspect?
- Who is the primary aggressor?
- Could the victim be lying?
- Could the suspect be lying?

42 U.S.C. 1983 is the United States Law which holds people, acting under the authority of the state, liable for damages caused when violating your constitutional rights. The Fourteenth Amendment states, "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The website malicious prosecution contains ample information and evidence to validate my claim of injustice. There are photos, articles of community involvement, character reference letters, accommodations, psychological evaluations; all which validate my true persona. In addition, it includes all the improper and erroneous court actions which occurred. These actions are obvious with review of the Massachusetts Laws that were violated and documentation of the Sixth Amendment rights.

In summary, a claim of injustice and violation of a U.S citizen's rights is not easily proved. Challenging the members of the court is not a task embraced by many. Yet, this occurs much more then people are made aware. It is time to bring out the truth as no one is perfect. A violation of such destructive intensity should be acknowledged and corrected. **I've always answered the call for help putting my life on the line to save someone else. Now, I'm the one asking for help. I'm asking PLEASE help me get the justice and freedom I deserve.** No one should judge a book by its cover!