

**PUBLIC CORRUPTION/SPECIAL PROSECUTIONS CLOSEOUT**

**TO: SAO FILE**

**FROM: Michael Horowitz** *MH*  
**Assistant State Attorney**

**SUBJ: Daniel Zavadil**  
**SP09-05-043**

**DATE: August 27, 2009**

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**REASON FOR CLOSEOUT:**

Officer Zavadil submitted a police report and a notice to appear for panhandling issued to Daniel Roberts to his supervisor Sergeant Greenlaw for his approval. Sergeant Greenlaw saw the notice to appear did have an inked thumb print of the defendant Daniel Roberts, but did not have his signature. Sergeant Greenlaw returned the report and notice to appear back to Zavadil with a note for Zavadil to see him and questioning the lack of a signature. A few days later the report and notice to appear were returned to Sergeant Greenlaw with a signature. Sergeant Greenlaw contacted Zavadil to speak to him about the signature and the policy of not issuing a notice to appear for panhandling. When questioned about the signature Zavadil admitted that he signed the notice to appear. When Zavadil attempted to explain Sergeant Greenlaw stopped him and reported this to his chain of command. The notice to appear and the charges against Roberts were never processed and Roberts was never prosecuted for panhandling.

Daniel Roberts gave a statement to Fort Lauderdale Internal Affairs that the signature on the notice to appear was not his and he produced his copy of the notice to appear which did not have a signature. Handwriting examination of the notice to appear indicates that the signature on the notice to appear was not Roberts' signature. The notice to appear had an ink thumbprint on it which matched Roberts. Fort Lauderdale Police Department forwarded this investigation to the State Attorney's Office to review for the charge of forgery against Officer Zavadil.

As part of this investigation this ASA met with Sergeant Greenlaw and attempted to meet with Roberts. This ASA spoke to Roberts on the telephone and he agreed to meet on July 31, 2009 but he failed to appear. Several telephone messages were left for Roberts with no return call. Sergeant McCarthy spoke to Roberts who stated he did not want any involvement with the case. Based on Roberts' failure to appear I had a State Attorney investigator personally serve Roberts with a mandatory subpoena for August 12, 2009. When State Attorney Investigator Walley made contact with Roberts by telephone, Roberts told Walley that he was not going to meet with him or appear because he did not want to testify against a policeman, that the policeman had a family and he did not want him to lose his job. Roberts stated that he would not testify at a

trial. Roberts was told that he needed to express these concerns to the prosecutor and agreed to meet with the investigator to accept the subpoena. When served the subpoena Roberts stated "I don't know if I signed it or not, I was too drunk to remember." Roberts failed to appear for the mandatory subpoena. This ASA called and left a message for Roberts. Roberts called two days later and left a message that he forgot about the meeting. Return phone calls and messages left for Roberts have not been returned.

Zavadil's attorney provided a factual proffer of the events surrounding this case. He stated that when Roberts was issued the notice to appear for panhandling he was handed the notice to appear and instructed to place his thumbprint on the original and sign it. As it had begun to rain Zavadil quickly separated the copies, giving one to Roberts and kept the originals. In rushing to finish he did not realize that Roberts placed his thumbprint on the notice to appear but failed to sign it. When the Sergeant returned the notice to appear because it was missing a signature Zavadil attempted to locate Roberts to have him sign it. Zavadil was unable to locate Roberts but knew that Roberts had received a copy of the notice and acknowledged it by placing his thumbprint on the original. Zavadil felt that the thumbprint was better than a signature and at this point the signature was more of formality for administrative purposes. Therefore, Zavadil scribbled a signature or mark on the signature line and resubmitted the notice to appear and his report. When questioned by the sergeant about the signature Zavidil attempted to explain his actions but was stopped by the sergeant before he could do so.

The charge of forgery requires a person to falsely alter, or forge a public document with the specific intent to injure or defraud an individual. In this case there is insufficient evidence that Officer Zavadil had the intent to injure or defraud anyone at the time he signed the notice to appear. Robert's admitted panhandling, was issued a notice to appear by officer Zavidil, placed his thumbprint on the notice to appear, and received his copy of it with a court date "to be set by court." Based on the totality of the facts in this case and the lack of cooperation of Daniel Roberts there is little likelihood of conviction. This matter will be closed and referred back to the Fort Lauderdale Police Department to take whatever administrative action they deem appropriate.

*[Handwritten Signature]*  
APPROVED: *[Handwritten Signature]* DATE: *5/16/03*