

STATE OF NEW YORK
COUNTY COURT

:

COUNTY OF ERIE

PEOPLE OF THE STATE OF NEW YORK,

Plaintiff,

STAY OF JUDGMENT PENDING
APPEAL PURSUANT TO CPL 460.50

vs.

Amherst Docket No. [REDACTED]

Index No [REDACTED]

[REDACTED],

Defendant.

S I R S:

The above-named defendant having been sentenced to a definite sentence of 90 days on [REDACTED], said sentence set to expire on [REDACTED], and the defendant having moved by her attorney [REDACTED] for a stay of judgment pending appeal, and upon all of the papers filed and the arguments of counsel for defendant and of [REDACTED], appearing on behalf of Erie County District Attorney [REDACTED] for the People of the State of New York, and with due deliberation,

Now, it is hereby ORDERED, that the sentence upon the defendant's judgment of conviction be stayed pending her appeal to this Court pursuant to CPL 460.50 and she be immediately released upon her own recognizance, and it is further ORDERED, that this stay shall expire on [REDACTED], [REDACTED] unless a brief has been filed and the appeal is still pending in this Court, and the defendant shall report to this Court to surrender herself into custody to finish serving her sentence.

DATED: Buffalo, New York

[REDACTED]

HON. [REDACTED]

STATE OF NEW YORK
COUNTY COURT

:

COUNTY OF ERIE

THE PEOPLE OF THE STATE OF NEW YORK,

Plaintiff,

AFFIDAVIT

vs.

██████████

Defendant.

STATE OF NEW YORK :
COUNTY OF ERIE : SS.
CITY OF BUFFALO :

1. I, ██████████, am an attorney at law, duly licensed to practice in the courts of this State. I am the Deputy for Appeals and Legal Writing for the Erie County Bar Association Aid to Indigent Prisoners' Society Assigned Counsel Program.

2. I make this affidavit based upon my review of the file and conversations with the defendant and her trial attorney.

3. This affidavit is made in support of defendant's application pursuant to Section 460.50 of the Criminal Procedure Law for a stay of judgment pending appeal.

4. On ██████████, in ██████████ Town Court, defendant was convicted of petit larceny and sentenced to 90 days. She is scheduled to be released ██████████.

5. On ██████████, her 28 year-old daughter, ██████████, was found dead in bed. ██████████e left behind four children, who will now be the responsibility of the defendant. Defendant was called down to the Security Office at the Erie County Correctional Facility and informed of her daughter's death. She has since been attempting to make arrangements and to grieve her daughter's death.

6. Nobody is present to make funeral arrangements for [REDACTED]. Her father was never really in the picture and passed away. Defendant is the only one who can make such arrangements for her daughter.

7. With such little time left on her sentence, she begs the court's indulgence to spend some time making these final arrangements and being with family at such a terrible time in her life.

8. The allegations consisted of defendant stealing clothing from JC Penney. She readily admits it, and while not downplaying the offense, it is not the crime of the century or an offense that should give this Court concerns about public safety while she remains out.

9. Defendant is employed full time at [REDACTED]. She informs me that her job is still waiting for her after she finishes her term.

10. Defendant understands that if her judgment of conviction is affirmed, she will need to serve the remaining two weeks of her sentence. She would be more than willing and able to do so; she merely begs the Court's (and frankly, the People's) indulgence and mercy so that she may take care of family issues and properly mourn the loss of her daughter.

11. Given the nature of the crime, the small amount of time left on her sentence, and the exceptional and awful circumstances, [REDACTED] humbly asks this Court to stay her sentence pending appeal and to release her on her own recognizance. Letting her temporarily go home would be the just and merciful thing to do in this trying time, and we understand that if the appeal does not go as we hope, she will have to serve two weeks at a later date.

12. The defendant is presently confined in the Erie County Correctional Facility, in the custody of the Sheriff of Erie County.

WHEREFORE, your deponent respectfully prays for an order pursuant to Section 460.50 of the Criminal Procedure Law, permitting a stay of judgment pending appeal and releasing the defendant on her own recognizance.

[REDACTED]

Sworn to before me this

[REDACTED]

[REDACTED]