

**IN THE CIRCUIT COURT IN AND FOR  
THE TWELFTH JUDICIAL CIRCUIT IN AND FOR  
MANATEE COUNTY**

STATE OF FLORIDA

Plaintiff,

CASE NO: 2024 CF 000399 AX

v.

SCOTT LAURIE HOPES,

Defendant,

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**DEFENDANT'S MOTION TO DISMISS COUNTS 3, 4, AND 7  
(TIME BARRED BY STATUTE OF LIMITATIONS)**

NOW COMES, SCOTT LAURIE HOPES, Defendant, moves to dismiss Counts 3, 4 , and 7 the Information filed herein on April 17, 2025, pursuant to Fla. R. Crim. Pro. 3.190(b), because the allegations are time barred by the statute of limitations, and in support thereof would state as follows:

1. The Defendant was being prosecuted for three charges prior to April 17, 2025: Count 1, Notary Fraud, a third-degree felony, pursuant to § 117.105, Fla. Stat. (2022), alleging that the crime occurred on October 27, 2022; Count 2, Grand Theft, a third-degree felony, § 812.014, Fla. Stat. (2021), alleging such crime occurred between April 1, 2021, and December 31, 2022; and Count 3, Fraudulent Use of A Public Record, pursuant to § 817.569(2), Fla.

Stat. (2021) alleging a crime occurring between April 1, 2021 and December 31, 2022. (DIN:28(30) filed March 7, 2024)

2. On April 17, 2025, the State filed an amended information, now charging:  
Count 1, Grand Theft, a third-degree felony, pursuant to § 812.014(1) and (2)(c)(2), Fla. Stat. (2022) alleging a crime occurring between September 24 and October 7, 2022; Count 2, Grand Theft, a third-degree felony, pursuant to § 812.014(1) and (2)(c)(2), Fla. Stat. (2022) alleging a crime occurring between November 5, 2022 and November 18, 2022; Count 3, Grand Theft, a third-degree felony, pursuant to § 812.014(1) and (2)(c)(2), Fla. Stat. (2022) alleging a crime occurring between April 1, 2021 and April 9, 2021; Count 4, Petit Theft, a first-degree misdemeanor, pursuant to § 812.014(1) and (2)(e), Fla. Stat. (2022) allegedly occurring between May 21, 2022 and June 3, 2022; Count 5, Fraudulent Use of A Public Record, pursuant to § 817.569(2), Fla. Stat. (2022) alleging a crime occurring October 2, 2022; Count 6, Fraudulent Use of A Public Record, pursuant to § 817.569(2), Fla. Stat. (2022) alleging a crime occurring November 18, 2022; Count 7, Fraudulent Use of A Public Record, pursuant to § 817.569(2), Fla. Stat. (2021) alleging a crime occurring April 9, 2021.
3. This motion is dispositive of Counts 3, 4 and 7 filed herein.

## **MEMORANDUM OF LAW**

A prosecution for a second-degree or third-degree felony must be commenced within 3 years after it is committed. § 775.15(2)(b), Fla. Stat. (2021). A prosecution for a first-degree misdemeanor must be commenced within 2 years after it is committed. § 775.15(2)(c), Fla. Stat. (2021).

Count 4, a first-degree misdemeanor allegedly occurring between May 21, 2022, and June 3, 2022 became time-barred on May 21, 2024. Thus, conviction for this crime charged on April 17, 2025 is time-barred.

Counts 3 and 7, third-degree felony grand theft charges, allegedly occurring between April 1 and 9, 2021 and on April 9, 2021, respectively, both became time-barred on April 9, 2024. Thus, conviction for these crimes charged on April 17 2025 is also time-barred.

The state may not substantively amend a charging document outside of the statute of limitations period. The State may only amend a charging document outside of the limitations period when necessary to correct a clerical error. *Marcario v. State*, 325 So.3d 1019, 1021 (Fla. 2d DCA 2021); *M.F. v. State*, 583 So.2d 1383, 1386 (Fla. 1991). The April 17, 2025, Information contains substantive changes and because several new charges have been added.

The filing of an amended information that, as here, substantively changes the charges has the legal effect of a nolle prosequi of the prior information in its entirety. *State v. Anderson*, 537 So.2d 1373, 1374 (Fla. 1989); *State v. Belton*, 468 So.2d 495, 497 (Fla. 5th DCA 1985) (“[T]he filing of a signed and sworn amended information has the legal effect on the original information of a *nolle prosequi*.”); see also *Sadler v. State*, 949 So.2d 303, 305 (Fla. 5th DCA 2007) (“A nolle prosequi effectively ends the proceeding, and, any action taken subsequent to the filing of the nolle prosequi is a nullity.” (first citing *State v. Braden*, 375 So.2d 49, 50 (Fla. 2d DCA 1979), then citing *Childers v. State*, 277 So.2d 594, 596 (Fla. 4th DCA 1973). *Marcario* at 1023-1024. (“Thus, in this case, the first amended information operated as a nolle prosequi of the original information, which could not be resurrected outside of the limitations period.”))

Here, too, the April 17, 2025, amended information filed outside of the applicable limitations period operated as a nolle prosequi of the preceding charging documents, which could not be resurrected outside of the limitations period. *Id.*

Thus, Appellant cannot be convicted of Count 3, Count 4 or Count 7.

In *Marcario*, the State amended the timely-filed charging document alleging attempted robbery with a weapon that was amended to attempted

robbery with a firearm, then amended again to add a 10-20-life designation. The District Court found that these amendments were untimely, subject to and outside of the applicable three-year statute of limitations, requiring discharge of Marcario as a consequence.

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided by electronic delivery to [saorounds@sao12.org](mailto:saorounds@sao12.org), the address listed with the Florida e-filing portal to the Office of the State Attorney in Sarasota, Florida on this the 17th day of April, 2025.



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