

IN THE CIRCUIT COURT OF THE  
EIGHTEENTH JUDICIAL CIRCUIT  
IN AND FOR BREVARD COUNTY, FL

STATE OF FLORIDA  
Plaintiff,

Case No.: 05-2019-CF-028122-~~A~~XXX-XX

vs

DAVID DOMINIC ISNARDI  
Defendant.

**EMERGENCY MOTION TO REDUCE, MODIFY, OR SET BOND**

**COMES NOW** the Defendant, by and through undersigned counsel, and pursuant to Fla. R. Crim. P. 3.131, and Art. I, § 14 of the Florida Constitution, respectfully moves this Court for an Order setting bond, aggregated amongst all counts, to no more than \$36,000 and imposing any nonmonetary conditions of pre-trial release deemed appropriate in the above-styled cause(s). As grounds, the Defendant (“Isnardi”) states, upon information and belief, as follows:

**1. Isnardi has lifelong ties to Brevard County, Florida.**

2. Isnardi moved to Florida the same month he was born (August, 1959).
3. Isnardi attended Melbourne Central Catholic High School (“MCC”), located in Brevard County.
4. After graduating from MCC, Isnardi enlisted in the U.S. Army where he served for approximately 22-1/2 years.
  - a. During his many years of service, Isnardi was deployed to numerous locations, including, but not necessarily limited, to the Middle East, Egypt, Israel, Northern Europe, and South American (at least twice).

- b. Isnardi was with the 82nd Airborne Division (the primary fighting arm of the XVIII Airborne Corps) based in Fort Bragg, North Carolina.
  - c. While serving, Isnardi suffered an injury to his back as a result of a bad jump which occurred in 1986.
  - d. On April 1, 1999, Isnardi was **honorably discharged** following **22 years**, 4 months, and 6 days of service.
  - e. During his many years in the Army, Isnardi's home of record was always Brevard County, Florida.
5. After being honorably discharged, Isnardi came back to Brevard County and has lived here, uninterrupted, since that time.
6. After being honorably discharged, Isnardi made use of the G.I. Bill and attended college classes during evenings.
  - a. Isnardi earned a **bachelor's degree** in Public Administration.
7. From that time until approximately September, 2018, Isnardi has maintained near constant employment.
  - a. He worked in various capacities for Brevard County, for the Clerk of Courts, for the City of Palm Bay, and privately during this time.
8. In 2018, Isnardi started a business with his stepson, Derek.
- 9. Isnardi has a serious medical issue which requires surgical intervention which he is unlikely to receive while in custody.**
10. Unfortunately, the aforementioned back injury which Isnardi sustained, while serving his country, was exacerbated due to a **reinjury**, which occurred while Isnardi was working, in September, 2018.

a. Radiological scans indicate at least 3 crushed vertebrae.

b.

c. Due to the state of Isnardi's health, Brevard County Jail is presently housing Isnardi in the infirmary (medical unit adjacent to 500 block) where he has been housed since the time he was booked.

11. Isnardi is presently **scheduled to have inpatient surgery on June 3, 2019** (less than one month from today) with Orthopedic Surgeon Dr. Paul Keller in Brevard County at a Health First hospital.

a. The surgery is contemplated as involving the fusing of vertebrae and the installation of multiple bars and/or rods alongside the spine.

b. Barring any complications, it is anticipated that Isnardi will spend three to five days in the hospital.

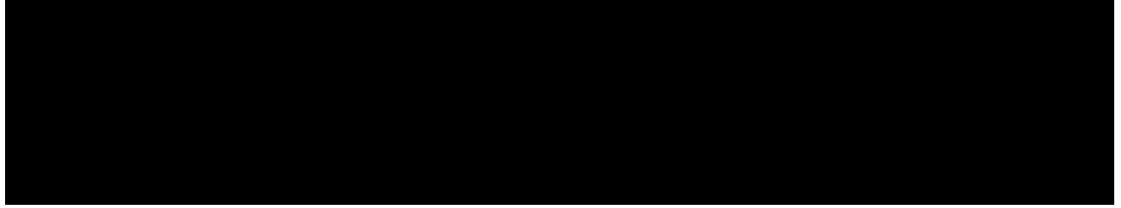
c. Barring any complications, it is anticipated that it will take Isnardi three to four months to substantially recover.

12. Multiple **preoperative appointments** have been scheduled for Isnardi including, but not necessarily limited to, a **May 28, 2019**, appointment with Isnardi's orthopedic surgeon and a May 28, 2019, appointment with Isnardi's nephrologist, Dr. Peter Spies.

a. It is anticipated that Isnardi may have to schedule additional preoperative appointments for both bloodwork and clearance from his primary care physician.

13.

a.



b.



14. Isnardi has 6 children, including one who is graduating from the United States Army Aviation Logistics School (USAALS) during the week beginning **May 19**, 2019 (approximately one week from today) at Fort Eustis, Virginia.

15. Isnardi's two youngest children are 15 and 17 years old and are both enrolled in school in Brevard County.

a. Both are honors students.

b. The youngest started taking classes at Eastern Florida State College ("EFSC") at 14 years of age and is now in her third semester at EFSC.

**16. Isnardi poses essentially no risk of physical harm to the community.**

17. Isnardi has a largely uneventful history with the judicial system. Ignoring minor civil traffic offenses, he has had no cases of note for over a decade.

a. The only case of any potential consequence which undersigned counsel was able to locate is a disorderly conduct charge from nearly 15 years ago in which there was no conviction.

18. In the intervening **years** since the allegations contained within the affidavit filed in this matter were alleged to have occurred, Isnardi has lived a wholly uneventful life without causing harm to anyone.

**19. Isnardi is exceedingly likely to comply with any and all court orders and appear as directed.**

20. Information, from Judicial Correction Services, indicates that there is **no history** of Isnardi ever having **failed to appear**.

21. Information, from Judicial Correction Services, indicates that there is **no history** of Isnardi ever having faced a **contempt** charge.

22. Information, from Judicial Correction Services, indicates that there is **no history** of Isnardi ever having faced a charge for **violating conditions of pretrial release**.

23. The very **same day** the arrest warrant was issued, in this matter, Isnardi promptly contacted counsel and, as advised, **drove to Brevard County Jail and surrendered himself** knowing full well that he would spend at least one night in jail based arriving past the time upon which he could possibly make it to that day's first appearance.

**24. The bond schedule suggests a total bond amount of \$36,000 aggregated amongst all counts.**

- a. For individuals who have lived in Brevard for at least three months, each count of a nonviolent first degree felony typically calls for a \$15,000 bond and each count of a nonviolent third degree felony typically calls for a bond of \$2,000. *See* AO 18-21-B.
25. Largely on account of having been out of work since September, 2018, as a result of repeated back injury, Isnardi does not have tens of thousands of dollars readily available with which to post bail.
26. Isnardi owns a home, jointly with his wife, but the house is under a VA loan which now amounts to somewhere around 85% of its estimated value.
27. The bond schedule does not take into account that one may be charged, as is the case in the instant cause, based upon Florida's extremely broad **accomplice liability** despite the allegations suggesting that Isnardi only played a **minor role** in comparison to the codefendant.

28. The bond schedule also fails to take into account that the intake department, at the State Attorney's Office, may choose to file charges of a lesser severity than those for which Isnardi was arrested.

29. The one and only reason that mere ROR is inappropriate in this matter is the severity of the charges.

**30. Florida law explicitly forbids Isnardi from being held without bond in this matter.**

31. "... [T]he Florida Constitution guarantees the right to pretrial release." Casiano v. State, 241 So.3d 219, 220 (Fla. 2d DCA 2018)

32. "Unless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime or violation of municipal or county ordinance shall be entitled to pretrial release on reasonable conditions. If no conditions of release can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process, the accused may be detained." Art. I, § 14, Fla. Const.

33. "... [E]very accused has a constitutional right to pretrial release on reasonable conditions, with two – and only two – exceptions. First, a person charged with a capital offense or an offense punishable by life imprisonment has no right to pretrial release if the proof of the accused's guilt is evident or the presumption that he or she committed the crime is great. Second, any accused may be detained if no conditions of release can reasonably protect the community from physical harm to persons, ensure the accused's presence at trial, or ensure the integrity of the judicial process." Casiano at 220.

a. At present, Isnardi has not yet been charged with anything as there has been neither an *information* filed nor an *indictment* obtained in this matter.

b. As the arrest was solely for charges which are neither punishable by death nor by life imprisonment, the only basis to hold Isnardi without bond would be if no conditions of release can reasonably protect the community from physical harm to persons, ensure the accused's presence at trial, or ensure the integrity of the judicial process.

- i. There is nothing in Isnardi's history that suggests there exists any elevated risk of physical harm to anyone in the community.
- ii. Isnardi's incredibly strong ties to Brevard County (including his family circumstances), lack of ties elsewhere, and total lack of any history of FTAs, contempt, violation of conditions of pretrial release, and willingness to immediately surrender himself upon learning of the existence of a warrant for his arrest, demonstrate that there is no elevated risk that Isnardi will fail to appear as directed. In fact, his history suggests the opposite.
- iii. Nothing so much as alleged suggests that Isnardi's release would, in any way, impugn the integrity of the judicial process.

**WHEREFORE**, Isnardi moves this Court for an Order setting bond at an amount, aggregated amongst all counts, of no more than \$36,000 and imposing any nonmonetary conditions of pre-trial release deemed appropriate (e.g., prohibition of contact with codefendant, etc.).

DATED at Melbourne, Florida, this 12th day of May, 2019.

/s/ Bryan Andrew Lober  
Bryan Andrew Lober  
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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished, this 12th day of May, 2019, by electronic delivery to the Office of the State Attorney at the following address(es): BrevFelony@sa18.org.

/s/ Bryan Andrew Lober  
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