

IN THE FIFTH DISTRICT,
COURT OF APPEALS,
STATE OF FLORIDA

MELVIN LAPENA ADONA,
Appellant.

APPEAL NO.: 5D26-0861

CASE NO.: 2025 CF 000498

VS.

STATE OF FLORIDA,
Appellee.

_____ /

Motion to Relinquish Jurisdiction to Reconstruct the Record

Pursuant to Fla. R. App. Procedure Rule 9.200(f), appellant Melvin Adona, moves this Court to temporarily relinquish jurisdiction for the purpose of reconstructing the record. As grounds for this motion, appellant states:

Procedural History and Statement of Facts

1. On May 20, 2025 the State charged Melvin Adona by Information with two counts of Leaving the Scene of a Crash with Death, one count of Leaving the Scene involving Serious Bodily Injury, and one count of Driving Under the Influence (DUI).

2. On January 20, 2026 Mr. Adona entered a negotiated open plea of *nolo contendere* to all counts, with a sentencing range on the felony counts of four to ten years imprisonment followed by probation and other conditions not at issue on appeal. The court set sentencing for March 4, 2026.

3. At the March 4, 2026 sentencing, the State presented evidence, including autopsy reports, toxicology, videos, victim photographs, and letters. Additionally, two law enforcement witnesses testified about the crash and a survivor, Mr. McClure testified and described his catastrophic injuries and his viewpoint as to an appropriate sentence. Next of kin presented their impact statements to the Court. The defense introduced character letters

filed in support of Mr. Adona, identified three of the character-letter authors who were present and called three defense witnesses— Joseph Adona (appellant’s brother), Sara Adona (appellant’s wife), and the appellant, who expressed remorse and accepted responsibility.

4. After the defense rested, the Court expressly announced: [“I’m gonna take a ten-minute recess just to gather my thoughts and to take some notes and then I’ll hear argument from both sides.”] The court then briefly recessed. Upon reconvening, the Court thanked counsel and the participants, discussed the difficulty of the case, noted the appellant was genuinely remorseful, but then immediately pronounced sentence: ten years Florida Department of Corrections ("DOC") on the first-degree felony counts, followed by probation with terms and conditions; time served and fines/costs as to the Driving Under the Influence (DUI) ; with all counts concurrent; and advised of Mr. Adona’s right to appeal. The sentencing pronouncement occurred before hearing argument from counsel, despite the Court’s earlier statement that it would do so. The Judge quickly exited the room stating she would sign the paperwork later.

5. Immediately defense counsel alerted the State to the issue and the two attorneys went back to the Judge's chambers where defense counsel notified the Court she had precluded defense counsel from having an opportunity to present argument prior to the imposition of sentence. The Court told the parties to go back to the courtroom and make their arguments for the record. Both sides presented their argument. The Court did not vacate Mr. Adona's sentence or resentence him. The sentence of ten years DOC was left in place.

6. Appellant timely filed his notice of appeal from the March 4, 2026 judgment and sentence.

7. After some delays, the Record was transmitted to this Court on June 3, 2026.

8. Reviewing this record, undersigned counsel became aware there was no digital recording of anything that occurred after the Judge reconvened Court to hear the argument of counsel. The designated Court Report confirmed there is no additional recording as she was expecting from the Court's statement she would hear from

counsel before imposing sentence. Undersigned counsel has confirmed with digital recording that there is no recording in their possession that has not been produced and transcribed. Because undersigned was also trial counsel, he recognized the omission.

9. The omission of closing arguments was also the subject of a newspaper article in Flagler Live ([Ten Years Prison For Melvin Adona in 2 Hit-and-Run Death in Bunnell](https://flaglerlive.com/adona-sentencing/))¹ Undersigned counsel contacted Flagler Live to see if they had a recording, but the paper only has a partial recording of the proceedings after the Court reconvened; defense counsel's argument was partially captured. This recording may be of some use to the parties in reconstruction of the record.

Appellant is Entitled to a Full and Accurate Transcript of an Essential Hearing such as Sentencing.

10. Here, the Court's sentencing without hearing the argument of counsel is the sole issue on appeal. An Appellant is entitled to a full and accurate transcript of essential hearings and record below. *McKenzie v. State*, 754 So. 2d 851 (Fla. 2d DCA 2000). Before an appellate court reverses a case due to a missing or incomplete transcript, the State should be afforded an opportunity to determine whether the missing portions of the record can be reconstructed. *Roberts v. State*, 766 So. 2d 443 (Fla. 4th DCA 2000).

11. Appellant seeks leave of this Court to relinquish jurisdiction so that the trial counsel might prepare a statement of the evidence or proceedings from the best available means and submit it to the lower tribunal for approval pursuant to Fla. R. App. P. 9.200(b)(4), or a certification by the trial court that the record could not be reconstructed pursuant to *Felton v. State*, 523 So. 2d 774 (Fla. 3d DCA 1998).

12. Undersigned counsel has conferred with Assistant State Attorney Melissa Clark, who agrees that the sentencing unfolded as described herein; she has been provided with a copy of the Flagler

¹ <https://flaglerlive.com/adona-sentencing/>

Live partial recording to assist her in reconstruction of the record to the extent that is possible.

13. Assistant Attorney General Samuel Perrone, has no objection to this motion.

WHEREFORE, Appellant respectfully requests this Honorable Court to relinquish jurisdiction to the trial court with directions to oversee the attempted reconstruction of the unrecorded portions of the appellant's sentencing hearing.

Certificate of Accuracy

Pursuant to Florida Rules of General Practice and Judicial Administration Rule 2.515(d)(2), the undersigned certifies that all legal authorities identified in this filing exist and are accurately cited.

Certificate of Service

I certify that a true and correct copy of the foregoing has been furnished by electronic service via the Florida Courts E-Filing Portal, in accordance with Administrative Order No AOSC13-49 to: The Office of the Attorney General, at crimappDAB@myfloridalegal.com, Flagler Clerk of Court at a pepe@flaglerclerk.com, Office of the State Attorney eserviceflagler@sao7.org, on this 19th day of June, 2026.

THE LAW OFFICE OF AARON
DELGADO & ASSOCIATES, PLLC

/s/ Aaron D. Delgado

AARON D. DELGADO, ESQUIRE

Florida Bar No. 0796271

227 Seabreeze Boulevard

Daytona Beach, Florida 32118

Telephone: (386) 255-1400

Facsimile: (386) 255-8100

adelgado@communitylawfirm.com