MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

April 22, 2013

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street. 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	*People of the State of New York v. Charles Peter Faso IV*
Document Received:	Order to Show Cause
Name of Claimant:	Charles Peter Faso IV
Claimant's attorney:	Bruce Kirby, Esq. 75 Fairfield Avenue PO Box 1712 Buffalo, New York 14215

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: Michelle Parker
Michelle M. Parker
First Assistant County Attorney

MMP:dld

Enclosure

RECEIVED
APR 19 2013
ERIE COUNTY
DEPARTMENT OF LAW

This paper received at the
Erie County Attorney's Office
from Bruce Kirby on
the 19 day of April, 2013
at 11:10 a.m./p.m.
Assistant County Attorney

At a Special Term of the County Court held
in and for the Count of Erie and State of New York
at Buffalo New York on the 19th day of
April , 2013

Present: **HON. SHEILA A. DiTULLIO, .J.C.C**

STATE OF NEW YORK
COUNTY COURT : COUNTY OF ERIE

Indictment No. 98-0827
SCI No. 115853

THE PEOPLE OF THE STATE OF NEW YORK

AGAINST

CHARLES PETER FASO IV

Defendant

ORDER TO SHOW CAUSE

The above entitled action having been brought before this Court, and the Defendant, Charles Peter Faso, IV having appeared by his attorney, Bruce Kirby, Esq., as the said Defendant is applying to this Court for an Order pursuant to CPL 160.58 conditionally sealing his criminal conviction by plea to Penal Law Section 110/220.39-04 Attempted Criminal sale of a Controlled Substance in the Third (3rd) Degree.

NOW, upon reading and filing the affidavit of Bruce Kirby, Esq., sworn to on April 16, 2013 , let the Erie County Department of Probation show cause before this Court located at 25 Delaware Avenue, Buffalo NY 14202 , Part 17 on the 6th day of May 2013 at 2:00 o' clock in the afternoon of that day or as soon as counsel may be heard why an Order should not be granted permitting the Erie County Department of Probation to

release and make available for inspection and photo copying by Bruce Kirby, Esq., of any and all reports concerning Defendant's drug treatment program and mental health treatment program.

SUFFICIENT REASON APPEARING, let personal service of this Order to Show cause with its supporting affidavit upon the Erie County Department of Probation and the Erie County Attorney and the Erie County District Attorney on or before 4:00PM April 19, 2013 be deemed good and sufficient service.

Honorable Sheila A. DiTullio, J.C.C.

GRANTED
Buffalo, New York

APR 18 2013
Date

Court Clerk

STATE OF NEW YORK
COUNTY COURT : COUNTY OF ERIE

THE PEOPLE OF THE STATE OF NEW YORK Indictment No 98-0827
SCI No. 11853

AGAINST

CHARLES PETER FASO IV

Defendant

STATE OF NEW YORK)
COUNTY OF ERIE) SS:

I, Bruce Kirby, being duly sworn deposes and say that:

1. Your deponent is admitted to practice law in the State of New York and makes this affidavit is support of the Defendant, Charles Peter Faso, IV application to this Court for an Order pursuant to CPL 160.05 conditionally sealing his criminal Class "C" Felony.

2. Defendant was charged with Criminal Sale of a Controlled Substance pursuant to Penal Law Section 220.41-4 Criminal Sale of a Controlled Substance in the Second (2'd) Degree.

3. The Honorable Sheila A. DiTullio on September 23, 1998 sentenced, Defendant, Charles Peter Faso IV to five (5) years probation after his plea to Attempted Criminal Sale of a Controlled Substance in the Third (3rd) Degree, "C" Felony.

4. The Erie County Department of Probation has advised your deponent

that it needs a Court Order to release any records it may have concerning the defendant's drug and mental health treatment programs.

5. Attached are copies of the Order of Probation by the Hon Sheila A DiTullio dated 9-23-1998 and a letter from the Erie County Department of Probation to the Hon Sheila A. DiTullio dated May 18, 1999

WHEREFORE your deponent respectfully requests an Order permitting your Deponent examination and copying of pertinent records held by the Erie County department of Probation concerning defendant's drug / mental health treatment programs for the purposes of applying for an Order conditionally sealing of the defendant's controlled substance conviction pursuant to N. Y. CPL LAW Section 160.58 and for such other relief deemed just and proper by the Court

Bruce Kirby

Sworn to before me April 16, 2013

LANCE LAZEWSKI
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
My Commission Expires 3-30-14

ERIE COUNTY PROBATION DEPARTMENT

☒ ORDER OF PROBATION
☐ ORDER TO COLLECT FINE
☐ ORDER TO COLLECT RESTITUTION

DOCKET OR INDICTMENT NO. 98-0827-0C

County COURT

Charles P. Fasco DATE OF BIRTH 12-20-75

ADDRESS 5935 Hyde Pk Blvd Niagara Falls NY 14304

HAVING BEEN CONVICTED OF 110/220.39-4

ADJUDICATED A YO YES ☐ NO ☒

☒ **PROBATION**

is this day sentenced to probation for a period of 5 years

under the supervision of the Erie County Probation Department.

While on probation, you shall lead a law-abiding life and observe the following conditions:

1. Report to a Probation Officer as directed and permit the Probation Officer to visit you at your residence or elsewhere.
2. Remain within the jurisdiction of the Court unless granted permission to leave by the Court or the Probation Officer.
3. Truthfully answer all reasonable questions by the Probation Officer and notify the Probation Officer prior to any change in address or employment.
4. In addition are also imposed as special conditions: Intensive Supervision Program.

A. Do not use illegal drugs. Remain arrest free

B. Submit to random testing + pay the cost of $15.00 per test.

C. Enter a mental health treatment program taking all required medications

D. until he is successfully discharged.

E. Remain in school + maintain at least part-time employment.

F. Continue to reside with your mother on Hyde Pk Blvd unless a move is approved by Probation.

Surcharge $155.00 w/in 6 months

☐ **FINE**

The Probation Department is directed to collect a fine of $ _____ payable in installments of _____ per _____ and fully paid by _____.

☐ **RESTITUTION**

The Probation Department is directed to collect restitution or reparation of $ _____ and a 5% surcharge of $ _____ ; the total amount payable:

A. in weekly/monthly payments of $ _____ and to be fully paid by _____.

B. other _____

Beneficiary to whom restitution is payable _____

I have read and understand these conditions and will abide by them.
I have received a copy of them.

SIGNATURE OF PROBATIONER — DATE 9-23-98 — JUDGE

WHITE/PROBATION OFFICE COPY, YELLOW/COURT COPY, PINK/PROBATIONER'S COPY

It is your responsibility to report to the Erie County Probation Department, Room 683, 25 Delaware Avenue, Buffalo, directly after your Court appearance, between 9:00 A.M. and 4:00 P.M. Monday through Friday. Bring this Order with you.

I allow your ISP officer to visit you at home, place of employment + school. Report this violation to your probation officer, community service

file

County of Erie

Dennis T. Gorski
County Executive

Department of Probation

Christopher C. Clark
Director

Gerald P. Fronckowiak
Deputy Director

Camille Brandon
Coordinator
PreTrial Services

May 18, 1999

Honorable Sheila DiTullio
Judge, Erie County Court
County Hall
Buffalo, New York 14202

RE: Charles Faso
Indictment #98-0827

Your Honor:

On September 23, 1998, you sentenced the above defendant to five years probation under the Intensive Supervision Program following his plea of guilty to Attempted Criminal Sale of a Controlled Substance, 3rd Degree.

Initially Mr. Faso's case was to be transferred to Niagara County, his county of residence, however, in November of 1998 he returned to Erie County. Since that time his case has been supervised under the Intensive Supervision Program of Erie County.

To date, Mr. Faso has made a good adjustment to community supervision. He is attending school full-time, works part-time and is completing his community service at the Diabetes Association located in the Town of Amherst. He has paid his mandatory surcharge in full. This department has conducted random urinalysis and he has been found to be negative for the use of any illegal substances.

It is currently recommended that the special condition of intensive supervision be deleted for this offender. This would allow Mr. Faso's case to be transferred to regular supervision for the balance of his probationary sentence. Does the Court concur ?

25 Delaware Avenue, Buffalo, New York 14202-3903 (716)858-8200 Fax (716)858-8194 Internet - www.erie.gov

Respectfully submitted,

Christine Scinta

CS/cls
5/18/99
Approved:

Christine Scinta
Probation Officer

Nancy Waterman

Nancy Waterman
Probation Supervisor

Court's Order Approved - based on recommendations of probation officer

Sheila A. DiTullio 5/24/99

Judge's Signature Date

SHEILA A. DITULLIO, J.C.C.