

MAXIMUM EXPOSURE

\$7,500 FORFEITURE COSTS AGENT HIS "LIFE"



Danny Buchanan, a 42 year old Palatka, Florida bail agent, will likely spend the rest of his life in prison. Buchanan, a father of 2 teenagers, was convicted of Aggravated Battery with a Firearm after he shot a bond jumper during a struggle in an attempt to surrender the fugitive. Under Florida's tough sentencing guidelines he was given the minimum sentence allowed, 25 years in prison without parole.

Buchanan had been a successful bail agent and businessman in Palatka. Along with his bail agency he owned a pawn shop, gun shop and gun range. Many of his customers were local law enforcement and corrections officers. His businesses have all been closed and some of his law enforcement friends unwillingly provided testimony that hurt his defense. Under oath, they said Buchanan told them he was not going to let the fugitive escape again.

Although the State offered several plea bargains to Buchanan he steadfastly refused and opted for a jury trial. Unfortunately, the jury did not believe his actions were in self defense nor did they accept the surety's right to surrender a fugitive even if force is necessary. After only one hour of deliberation they returned a guilty as charged verdict.

At this point it is safe to say Buchanan would have gladly paid the \$7500 forfeiture many times over rather than essentially lose his life. Bail agents are noted for tenacity in returning bail jumpers to jail rather than paying a loss. This tragic case shows that sometimes discretion is the better part of valor. Under Florida law, Buchanan could have paid the loss and had up to 2 years in which to apply for remission if the fugitive was arrested. The following article from the *Palatka Daily News* summarizes the case.

Reprinted

Buchanan sentenced to 25 years

By Brad Buck, Palatka Daily News

PALATKA – a Palatka bail bondsman will face what his attorney said was "tantamount to a life sentence" after he was sentenced Wednesday to 25 years in prison for shooting a former client in the buttock.

Circuit Judge Ed Hedstrom said he didn't think the punishment was appropriate. He read from an opinion of an appellate judge, who said the Legislature has tied judges' hands in imposing minimum mandatory sentences without giving judges discretion.

Facing the judge in a standing-room-only courtroom, Danny Buchanan, 42, apologized to Hedstrom and his client for the crime.

"It's true that I take full responsibility," he said. "I shattered Kevin Brinson's leg and when I did that, I shattered my life and my family's. I ask for forgiveness from Kevin and my family. "For every action, there is an equal reaction," Buchanan said. "I had to do what I had to do. He made his actions. I had to make mine."

Under Florida's 10, 20, Life Law, Buchanan had to be sentenced to at least 25 years and up to life in prison for his conviction. The law says a person armed with a gun while committing a felony gets 10 years, if they fire the gun they get 20 years and if they hit someone with the bullet, they get up to life.

Buchanan and his attorneys, Garry Wood and Ronald Clark, said they

did not think 25 years in prison was fair. Hedstrom agreed but said his hands were tied by state law.

"The statute in this case results in an unjust punishment," the judge said, after reading from Judge Philip Padovano's opinion in a 2004 drug case. "I may disagree with the law, but I have no choice, and I think you understand that." "Yes, sir,(I) do," Buchanan said,

For the past 150 years, Florida legislators set general guidelines and trusted judges to decide the appropriate punishment for a crime, Padovano said in his opinion.

"It is surprising to me how fast that has all changed," he said. "In the last 25 years, the sentencing function has been taken over almost entirely by the Legislature. Anyone who thinks that a Florida judge has the power to decide what the proper sentence should be in criminal case would be mistaken."

Mostly judges just do math and fill out forms to find the sentence the Legislature has already decided, Padavano said.

"Mandatory minimum sentencing statutes do have some positive features in that they afford an element of certainty and they apply equally to everyone," he said. "But there are the same features that can work to impair justice... Every case is different."

At Wednesday's hearing, prosecutors made sure Hedstrom, family and friends understood Buchanan had ways to escape the 25-year prison term before and during the trial.

Before last month's trial, prosecutors offered Buchanan a deal under which he would plead no contest to aggravated battery without a firearm, said Assistant State Attorney Joe Boatwright. Buchanan would have faced from probation up to 15 years, Boatwright said. Buchanan rejected the offer.

After the jury was selected and just before trial, the state repeated its offer, and Buchanan rejected it, Boatwright said. After the state rested its case during the trial, prosecutors offered the same plea. This time the state said it would have argued for five to 15 years in prison. Again, Buchanan said no.

"Under Florida law, Mr. Buchanan did not have a special right as a bondsman to use whatever force he deemed necessary to apprehend a bail jumper," a statement from the state attorney's office said. "In fact, Mr. Buchanan was only allowed to use the force reasonable to protect himself just as any citizen would."

Brinson, a three-time convicted drug felon, was arrested again Wednesday on a violation of probation warrant, sheriff's Maj. Rick Ryan said after the sentencing hearing.

Brinson attended the sentencing but said he did not want to say anything

About 30 to 40 family and friends of Buchanan attended the hearing. Some shed tears, "Hang in there," one of them said to Buchanan as he looked back at the crowd and was leaving the courtroom.

A handful of people from Melrose to Jacksonville had written letters to Hedstrom, asking him to show leniency when he sentenced Buchanan. His sentence was delayed from last week because his attorneys filed motions for a new trial and experts to determine if Buchanan is competent.

Two mental health experts examined Buchanan and found him competent Hedstrom said Wednesday.

Hedstrom also denied the defense's motion for a new trial, Buchanan was convicted by a Putnam County jury of aggravated battery with a firearm after he shot Brinson in the buttock on July 16, 2004.

Buchanan claimed self-defense. He said Brinson, 25, reached under the driver's seat of Lilarry Sessions' car, and he didn't know what his client was grabbing for.

Fearing for this life, he said he shot Brinson once in the buttock with a .40-caliber Glock pistol.

Brinson had skipped bail and a trial and had been in a fight with Buchanan when the bondsman came to Brinson's girlfriend's house in Gainesville, testimony showed.