



OFFICE OF THE MERCER COUNTY PROSECUTOR

ANGELO J. ONOFRI
Acting Prosecutor

Mercer County Courthouse
P.O. Box 8068
Trenton, New Jersey 08650-0068
Phone: (609) 989-6350
Fax: (609) 989-0161
mercercountyprosecutor.com

DORIS M. GALUCHIE
First Assistant Prosecutor

WILLIAM STRANIERO
Chief of County Detectives

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CONTACT: Casey A. DeBlasio
(609) 989-6379

Former NFL Player Indicted for Making a Failed Electronic Funds Transfer

TRENTON – A former NFL player from Totowa was indicted last week by a Mercer County grand jury in what is the first prosecution under a new statute that makes a failed electronic funds transfer (EFT) the same as a bad check, Acting Mercer County Prosecutor Angelo J. Onofri reported.

The indictment, handed up on April 22, 2015, charges Plaxico Burress, age 37, of Totowa, New Jersey, with one count of issuing a bad check or electronic funds transfer, and one count of willful failure to pay state tax. Both are third-degree crimes.

In 2014, the New Jersey Legislature recognized that as a result of electronic banking transactions, the problem of failed EFTs had become a serious issue.

On September 11, 2014, Governor Chris Christie signed a bill into law to fix a longstanding discrepancy that treated bounced paper checks and insufficient electronic payments differently. The new law allows criminal penalties to be imposed on people who send insufficient e-payments just as if they were bounced checks.

A failed electronic payment occurs when a taxpayer filing online designates a financial institution from which to draw payment, and the account either does not exist or there are insufficient funds in that account. The new law went into effect on September 20, 2014.

Burress filed his 2013 income tax return with the New Jersey Division of Taxation on October 20, 2014. He owed \$47,903 in tax. Burress submitted an electronic funds transfer to the Division of Revenue and Enterprise Services (DORES) for the amount of the tax due, but the EFT failed. That division generated an automatic letter notifying

Burress of the failed EFT and requesting that he submit full payment. Burress did not respond and the case was referred to the State Department of the Treasury's Office of Criminal Investigation (OCI).

A second letter was generated and sent to Burress notifying him of the failed EFT and requesting that he contact OCI to address the matter. Burress did not respond. OCI then sent Burress a personal letter via certified and first class mail notifying him about the failed EFT and asking him to contact OCI. The certified letter was returned unclaimed and the first class mail was not returned. OCI notified Burress' tax preparer for 2013 of the failed EFT and asked him to contact Burress and inform him about the seriousness of the situation. Burress did not respond.

On February 4, 2015, OCI filed a criminal complaint charging Burress with one count of issuing a bad EFT and one count of willful failure to pay tax.

Third-degree crimes carry a maximum penalty of five years in state prison and a \$15,000 fine.

The charges are the result of an investigation led by OCI Supervising Investigator Donald Krulewicz.

Senior Assistant Prosecutor James Scott, chief of the Mercer County Prosecutor's Economic Crime Unit, presented the case to the grand jury.

Despite having been indicted, every defendant is presumed innocent until found guilty beyond a reasonable doubt in a court of law.

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