

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 6:22-cr-201-WWB-LHP

EVAN EDWARDS,

Defendant.

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**UNOPPOSED MOTION TO WITHDRAW AS COUNSEL
DUE TO CONFLICT OF INTEREST AND FOR
APPOINTMENT OF CJA COUNSEL**

The Office of the Federal Defender, through undersigned counsel, respectfully moves to withdraw from further representation of the above-named defendant, to terminate further notification of electronic filings in this case, and for the appointment of conflict-free CJA counsel. As grounds in support thereof, undersigned counsel states the following:

1. On December 15, 2022, the Office of the Federal Defender was provisionally appointed to represent Evan Edwards in the above styled case. (Doc. 17).

2. Undersigned counsel has learned of a conflict of interest that exists between Mr. Edwards and a former client represented by the Federal Defender's Office.

3. The Office of the Federal Defender, specifically, Assistant Federal Defender Erin Brenna Hyde moves to withdraw as counsel for the Defendant, Evan Edwards, and requests this Court appoint conflict-free counsel.

4. Assistant United States Attorney, Kara Wick, has been conferred with and, the government has no objection to this motion.

5. The undersigned is unable to confer with Mr. Edwards to advise him of the need to file this motion. Based upon her interaction with him on December 15, 2022, the undersigned does not believe an effective conversation could be had with Evan Edwards due to his nonverbal state. Mr. Edwards remains hospitalized.

MEMORANDUM

Local Rule 2.03(b) provides that no attorney shall withdraw as counsel without approval of the Court and notice to the defendant. The trial court's decision to release counsel is an exercise of its discretion. *United States v. Williams*, 717 F.2d 473, 475 (9th Cir. 1983).

Undersigned counsel is a member of the Florida Bar and such attorneys are bound by the ethical rules regulating the Florida Bar set forth in the Rules of Professional Conduct ("Rules"). The Sixth Amendment to the United States Constitution otherwise guarantees an accused the right to counsel. If the accused is indigent and wishes counsel, an attorney must be appointed. *Gideon v. Wainwright*, 372 U.S. 335 (1963). Certainly, Mr. Edwards wishes to be represented by an attorney.

A defendant has the right to be represented by an attorney who is free from actual conflicts of interests between clients. Rule 4-1.7(a)(2) states that "a lawyer must not represent a client if there is a substantial risk that the representation of 1 or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer." Rule 4-1.9 states,

A lawyer who has formerly represented a client in a matter must not afterwards:

- (a) represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent;
- (b) use information relating to the representation to the disadvantage of

the former client. . . ; or

(c) reveal information relating to the representation except as these rules would permit or require with respect to a client.

Furthermore, Rule 4-1.10(a) requires all attorneys in a firm to be treated as one and the Office of the Federal Public Defender is treated as a firm.

An attorney owes a client a duty to avoid conflicts of interest. *Strickland v. Washington*, 466 U. S. 668, 104 S. Ct. 2052, 2064-65 (1984). If a conflict arises, a lawyer shall not continue representation if the exercise of independent professional judgment on behalf of one client will be or is likely to be adversely affected by his representation of another client. *Lightbourne v. Dugger*, 829 F.2d 1012, 1023, n.12. The comments to Rule 4-1.7 emphasize that loyalty is an essential element in a lawyer's representation of a client. The comments also recognize that this duty of loyalty prohibits representation of a client which is directly adverse to another client's interests, to include former clients. The comments state that, "Loyalty to a client is also impaired when a lawyer cannot consider, recommend, or carry out an appropriate course of action for the client because of the lawyer's other responsibilities or interests." Such a conflict is presented here that precludes the Federal Defender's Office from continued representation of Mr. Edwards.

WHEREFORE, undersigned counsel respectfully moves this Court to enter an order permitting the Federal Defender's Office to withdraw due to a conflict of interest, to terminate future CM/ECF notifications to undersigned counsel concerning this case, and to appoint conflict-free CJA counsel to represent Mr. Edwards.

Respectfully submitted this 19th day of December 2022.

A. FITZGERALD HALL, ESQ.
FEDERAL DEFENDER, MDFL

/s/ Erin Brenna Hyde

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that undersigned electronically filed the foregoing with the Clerk of Court (CM/ECF) by using the CM/ECF system which will send a notice of electronic filing to Kara Wick, Assistant United States Attorney, this 19th day of December 2022.

/s/ Erin Brenna Hyde

Attorney for Defendant