

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 23-cr-60173-CR-WILLIAMS

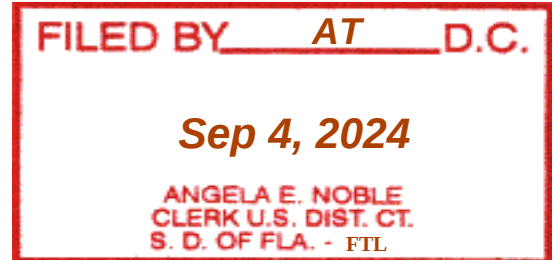
UNITED STATES OF AMERICA,

Plaintiff,

v.

CAROLYN DENISE WADE, and
TRACY D. WADE,

Defendants.



ORDER

THIS CAUSE is before the Court following an order of reference [DE 129] by Senior United States District Judge Donald L. Graham regarding the Government's *ore tenus* motion [DE 113] for a *Garcia* hearing.

On July 15, 2024, I conducted a *Garcia* hearing, pursuant to Federal Rule of Criminal Procedure 44(c), in light of the stated intention for Daryl Elliott Wilcox and Johnny Leonard McCray, Jr. to jointly represent both Defendants. Following that hearing, I issued an order finding that both Defendants had knowingly, intelligently, and voluntarily waived their rights to conflict-free counsel and that Mr. Wilcox and Mr. McCray could continue to represent both Defendants. [DE 116]. Following the July 15 hearing, but before my order finding a knowing, intelligent, and voluntary waiver, the Government filed a memorandum identifying particular circumstances creating potential conflicts of interest arising from joint representation, based on Mr. Wade's previous testimony and other evidence the Government intends to present at trial. Subsequently, the Court re-referred the Government's motion for a *Garcia* hearing to me to ensure that the Defendants are aware of the facts and arguments made in the Government's

memorandum and that they have considered that information in deciding whether to waive their right to conflict-free counsel.

Accordingly, on September 4, 2024, I conducted a further hearing. At that hearing, each of the Defendants acknowledged, under oath, that they had read and understood the Government's memorandum [DE 108] and the excerpts from Mr. Wade's previous testimony attached thereto. [DE 108-1]. Each Defendant acknowledged that they understood the potential conflicts the Government had identified and that they had discussed those issues with their counsel. At the hearing, the Government further summarized the potential conflicts it had identified. Each Defendant acknowledged that they had heard and understood the Government's explanation of these potential conflicts.

Each Defendant acknowledged that they have the right to an attorney that represents only him or her and that the Court could appoint a separate attorney if they could not afford one. Each Defendant also acknowledged that the Court could appoint an attorney for them to consult regarding the decision of whether to waive the conflicts that could arise from joint representation. Both Defendants declined the opportunity to consult with separate, appointed counsel. Both Defendants denied having any further questions about potential conflicts of interest and denied needing any further time to consider whether to waive those potential conflicts. Each Defendant then affirmed that they wanted to proceed with Mr. McCray and Mr. Wilcox as their counsel, even knowing that those attorneys will also represent the other Defendant and that that joint representation may cause conflicts of interest.

Based on the Defendants' statements at the hearings on July 15 and September 4, 2024, I find that both Carolyn Denise Wade and Tracy D. Wade have knowingly, intelligently, and voluntarily waived their right to a conflict-free attorney. It is therefore

ORDERED AND ADJUDGED that Attorneys Daryl Elliott Wilcox and Johnny Leonard McCray, Jr. will be permitted to represent Defendant Tracy D. Wade and Defendant Carolyn Denise Wade in this matter.

DONE and ORDERED in Chambers at Fort Lauderdale, Florida, this 4th day of September, 2024.


JARED M. STRAUSS
UNITED STATES MAGISTRATE JUDGE