

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 6:20-mj-01673-LRH

JOSHUA EVAN EDWARDS,
JOY ESTHER EDWARDS,
EVAN WILLIAM EDWARDS, and
MARY JANE EDWARDS

NOTICE OF ERRORS IN COMPLAINT AFFIDAVIT

I. INTRODUCTION

The United States of America, by Maria Chapa Lopez, United States Attorney for the Middle District of Florida, notifies this Honorable Court of errors in the affidavit that was previously submitted in support of a Criminal Complaint, issued on September 18, 2020. The United States is disclosing the errors in the affidavit to ensure compliance with Title 28, United States Code, Section 530B, ethical standards for attorneys for the Government, the Middle District of Florida Local Rules, Rule 2.02(c), establishing that attorneys in the Middle District of Florida are governed by the Code of Professional Responsibility and other ethical limitations or requirements governing the professional behavior of members of The Florida Bar, and The Florida Bar Rules of Professional Conduct, Rule 4-3.3, Candor Toward the Tribunal.

II. PROCEDURAL HISTORY

On September 18, 2020, this Court signed the Criminal Complaint¹ in this matter. As a basis for issuing such Complaint, this Court reviewed and relied upon an affidavit attached to the Complaint. The United States was recently informed of unintentional errors contained in the affidavit. The United States does not seek to amend the affidavit; rather, we are disclosing the errors in the prior affidavit and informing the Court of the corresponding corrections to comply with The Florida Bar Rules of Professional Conduct, Middle District of Florida Local Rules, Rules 2.02(c) and 2.04(d), and Title 28, United States Code, Section 530B. To file a complete notice and avoid the undersigned from becoming a necessary witness, the United States has attached an affidavit identifying the errors in the previously submitted affidavit and the respective corrections. See Affidavit; Ex. 1.

III. MEMORANDUM OF LAW

“Every attorney appearing in the Middle District of Florida is governed by the Code of Professional Responsibility and other ethical limitations or requirements governing the professional behavior of members of The Florida Bar.” U.S. v. Hough, 2013 WL 4596516, at *2 (M.D. Fla. 2013). Title 28 United States Code, Section 530B states, in part:

¹ Upon motion of the United States, the Criminal Complaint was subsequently dismissed without prejudice.

(a) An attorney for the Government shall be subject to State laws and rules, and local Federal court rules, governing attorneys in each State where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorney in that State.

28 U.S.C. § 530B. In addition, the Middle District of Florida Local Rules, Rule 2.02(c), provides:

Any attorney who appears specially in this Court . . . shall be deemed familiar with, and shall be governed by, these rules in general, including Rule 2.04 hereof in particular; and shall also be deemed to be familiar with and governed by the Code of Professional Responsibility and other ethical limitations or requirements then governing the professional behavior of the The Florida Bar.²

The Rules Regulating the Florida Bar require candor toward the tribunal. Specifically, The Florida Bar Rules of Professional Conduct, Rule 4-3.3, states, in part, the following:

(a) False Evidence; Duty to Disclose. A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

(2) fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client;

² The Middle District of Florida Local Rules, Local Rule 2.04(d) states:

The professional conduct of all members of the bar of this Court, admitted generally under Rule 2.01 or specially under Rule 2.02, shall be governed by the Model Rules of Professional Conduct of the American Bar Association as modified and adopted by the Supreme Court of Florida to govern the professional behavior of the members of the Florida Bar.

(3) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or

(4) offer evidence that the lawyer knows to be false. A lawyer may not offer testimony that the lawyer knows to be false in the form of a narrative unless so ordered by the tribunal. If a lawyer, the lawyer's client, or a witness called by the lawyer has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence that the lawyer reasonably believes is false.

Subsection (c) addresses ex parte proceedings and states:

(c) Ex Parte Proceedings. In an ex parte proceeding a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.

Subsection (d) explains that the lawyer's duty continues beyond the conclusion of the proceeding and states:

(d) Extent of Lawyer's Duties. The duties in this rule continue beyond the conclusion of the proceeding and apply even if compliance requires disclosure of information otherwise protected by rule 4-1.6.

IV. NOTICE TO THE COURT

The special agent who attested to the affidavit in this matter recently informed the United States that the affidavit in support of the Application for a Search Warrant contained unintentional errors. To comply with the Florida Bar Rules of Professional Conduct, the United States has attached an affidavit identifying the errors and provided the corresponding corrections.

See Ex. 1. As stated above, the United States is not requesting to submit an amended affidavit to the Court. Rather, the United States only seeks to notify the Court of the errors and provide corresponding corrections to ensure that we have complied with our obligations of candor.

Respectfully submitted,

MARIA CHAPA LOPEZ
United States Attorney

By: /s/ Jennifer M. Harrington
JENNIFER M. HARRINGTON
Assistant United States Attorney
Florida Bar No. 0117748
400 W. Washington Street, Suite 3100
Orlando, Florida 32801
Telephone: (407) 648-7500
Facsimile: (407) 648-7643
E-mail: Jennifer.Harrington2@usdoj.gov