

**IN THE CIRCUIT COURT IN AND FOR PINELLAS COUNTY, FLORIDA
FELONY DIVISION**

STATE OF FLORIDA

v.

Case No.: 23-2935-CF

TOMASZ KOSOWSKI
DEFENDANT

_____/

MOTION TO WITHDRAW DUE TO CONFLICT OF INTEREST

The Office of the Criminal Conflict and Civil Regional Counsel, Court-Appointed Counsel for Defendant, moves this Court for the entry of an Order permitting the Office of Criminal Conflict and Civil Regional Counsel to withdraw and to appoint another attorney to represent Defendant. As grounds therefore, counsel states:

1. Defendant is charged with Murder in the First Degree and the State is seeking the death penalty.
2. Regional Counsel previously represented a witness who is a listed witness for the State.
3. The Office of Regional Counsel will submit that, based on these facts, a conflict of interest exists, but counsel is precluded from revealing the nature of the conflict or the name of the witness to the trial court based upon our ethical duty to Defendant and oath to the Florida Bar.
4. Although Florida Statutes § 27.5303 permits a trial court to inquire into the factual basis of a legally sufficient motion for leave to withdraw on conflict of interest grounds that arises, this provision does not give a trial court free rein to inquire into matters which are privileged by law.
5. Pursuant to that section, in the very narrow circumstance presented here - where a public defender represents that a conflict of interest exists, but is precluded from revealing the

nature of the conflict to the trial court based upon his or her ethical duty to the client — the privilege remains intact. *Guzman v. State*, 644 So. 2d 996, 999 (Fla. 1994) (mandating withdrawal upon the basis of a public defender's representation of a conflict due to adverse interests between two clients).

6. Once a public defender has certified a conflict, and where it becomes clear that the trial court cannot learn the basis for the conflict "without requiring the disclosure of . . . confidential communications," the trial court must grant the motion under section 27.5303(1)(a). *Smith v. State*, 156 So. 3d 1119 (Fla. 2015).
7. "A trial court order compelling an ethically conflicted attorney to represent a criminal defendant denies that criminal defendant effective assistance of counsel." *Young v. State*, 189 So. 3d 956, 959 (Fla. 2d DCA 2016).
8. Pursuant to F.S. 27.5303 I certify that I have reviewed viable alternatives to withdraw and none will remedy the conflict of interest. I have reviewed this motion with the Regional Counsel or her designee who approves the filing of this Motion.

Wherefore, counsel respectfully requests that this court grant Regional Counsel's motion to withdraw and to appoint another attorney to represent Defendant.

ITA NEYMOTIN
REGIONAL COUNSEL

/s/ Andrew Crawford
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished via email to the Office of the State Attorney, P.O. Box 17500, Clearwater, Florida 33762 at eservice@flsa6.gov the JAC at pleadings@justiceadmin.org and the Defendant via mail at the Pinellas County Jail on June 5, 2025.

ITA NEYMOTIN
REGIONAL COUNSEL

/s/ Andrew Crawford
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