

**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA**

STATE OF FLORIDA,

Plaintiff,

v.

NIKOLAS CRUZ,

Defendants.

CASE NO.: 18-1958CF10A

JUDGE: SCHERER

**ORDER DISMISSING
MOTION TO DISQUALIFY THE OFFICE OF THE STATE ATTORNEY, 17TH JUDICIAL
CIRCUIT, FROM PROSECUTING THE DEFENDANT
AND
MOTION TO DISQUALIFY THE LAW OFFICE OF THE PUBLIC DEFENDER FROM
REPRESENTING DEFENDANT**

THIS CAUSE comes before the Court upon the above-styled motions filed by Alex Arreaza, attorney for [REDACTED] in a civil capacity. Having considered the instant motions filed by Mr. Arreaza, applicable law, and being otherwise fully advised in the premises, this Court finds as follows:

Mr. Arreza is an attorney on behalf of [REDACTED] in a civil capacity. As indicated in his instant motions, on March 7, 2018, Mr. Arreaza notified various entities of his intent to file a civil lawsuit for negligence on behalf of his client.

In his instant motions, Mr. Arreaza asserts that in the course of his investigation, he has discovered a document called "Collaborative Agreement on School Discipline," which he argues necessitate the disqualification of the Office of the State Attorney of the Seventeenth Judicial Circuit as the prosecuting authority in this case, as well as the Law Office of the Public Defender of the Seventeenth Judicial Circuit as counsel for Defendant. He claims that this document demonstrates a conflict for these entities. He

additionally argues that any failure of Mr. Cruz's counsel to present the facts alleged in his motions at trial will amount to ineffective assistance of counsel. Mr. Arreaza further states that the reason he files the instant motions is because of the tremendous amount of suffering his client and client's family have already endured, and "do not want to go through this traumatic experience again in a second trial if the conviction in this case is reversed."

Without any need to address the merits of the claims raised in the instant motions, this Court finds that Mr. Arreaza, on behalf of his client, as a non-party, lacks standing to motion this Court for the specific requests for relief set forth. As the Florida Supreme Court noted in *Johnson v. State*, 78 So. 3d 1305, 1315 (Fla. 2012), "Because [the Office of Criminal Conflict and Civil Regional Counsel] is not a party, it is not in the best position to address the determination of conflict." See also, *S.K. v. State*, 881 So. 2d 1209 (Fla. 5th DCA 2004) (*where parents of minor victim sought to set aside pretrial intervention agreement between the State and a juvenile defendant, the Fifth District Court of Appeal affirmed the trial court's finding that since they were not a party to the action, they lacked standing to assert a legal claim or to seek enforcement of a legal right through the motion*).

Additionally, in *Kowalski v. Tesmer*, 125 S. Ct. 564, 570 (2004), in addressing a claim of attorneys attempting to assert third-party standing on behalf of Michigan indigent defendants who were denied appellate counsel, the United States Supreme Court agreed "... with the dissenting opinion in the Court of Appeals that 'it would be a short step from the ... grant of third-party standing in this case to a holding that lawyers


generally have third-party standing to bring in court the claims of future unascertained clients'."

Defendant is represented by highly competent counsel within the Law Office of the Public Defender. This Court has no doubt that if Defendant's counsel believed there existed any grounds concerning a conflict, counsel would take any and all appropriate action. As things stand, there exists no hindrance to Defendant's ability to protect his own interests with the counsel with which he is now represented.

Accordingly, because undersigned counsel to the instant motions lacks standing to motion this Court for the specific relief requested,

It is **ORDERED AND ADJUDGED** that the instant motions are hereby **DISMISSED**.

DONE AND ORDERED on this 21 day of March, 2018, in Chambers,
Fort Lauderdale, Broward County, Florida.


ELIZABETH SCHERER
CIRCUIT JUDGE

Copies furnished to

Alex Arreaza, Esq , 320 W Oakland Park Blvd , Wilton Manors, FL 33311

Office of the Public Defender

Office of the State Attorney