

IN THE CIRCUIT COURT OF THE  
NINTH JUDICIAL CIRCUIT, IN AND FOR  
ORANGE COUNTY, FLORIDA

STATE OF FLORIDA  
Plaintiff,

vs.

CASE NO: 48-2016-CF-015738-O-A

DIVISION: 99

MARKEITH DEMANGZLO LOYD Defendant.  
\_\_\_\_\_ /

**MOTION TO STAY PROCEEDINGS**

I, Aramis Ayala, State Attorney for the Ninth Judicial Circuit, respectfully move this Court to stay the proceedings in the above captioned case.

1. On January 3, 2017, I was sworn in as the State Attorney for the Ninth Judicial Circuit. I swore to “support, protect, and defend the Constitution and Government of the United States and of the State of Florida . . .”
2. At that time and throughout my campaign, the death penalty in Florida had been suspended while the Florida Supreme Court reviewed and Florida Legislature worked to address the death penalty statute.
3. At the time that I was sworn in, it was my expectation that if the Florida Supreme Court reinstated the death penalty, then in appropriate cases, I would seek the death penalty.
4. On December 13, 2016, Sade Dixon, who was pregnant, was murdered and her brother Ronald Stewart was shot.
5. On January 9, 2017, Lieutenant Debra Clayton was murdered.
6. On February 15, 2017, Markeith Loyd was indicted on the murders of Ms. Dixon and Lt. Clayton.

7. After careful, intensive, and individualized consideration of the facts of these cases and my ethical duty to seek a result consistent with the fair administration of justice, I determined that my office would seek a life without parole sentence for Markeith Loyd.

8. At that time, I determined that if I did not believe that death was the appropriate punishment given this set of facts that the consistent action would not be in the best interest of this community or the pursuit of justice.

9. Last Thursday, March 16, 2017, I informed the public of my decision.

10. At approximately 3:20 March 16, 2017, I received a phone call from Governor Rick Scott telling me that I needed to voluntarily ask for a transfer of the case to another State Attorney. I refused and asked Governor Scott if I could explain all that had gone into my decision. Governor Scott said he was only interested in my recusal and refused to have a detailed conversation. Upon my statement to him that I was not recusing myself the conversation ended.

11. Governor Rick Scott then announced in an Executive Order his intention to remove me from the case. (As of 8:30am March 20, 2017 I still have not received a copy of that Order.).

12. The Governor does not possess any authority to remove me, a popularly elected State Attorney. Under Article V, section 17 of the Florida Constitution, I retain complete authority over charging and prosecution decisions. *Id.* (“except as otherwise provided in this constitution, the state attorney *shall* be the prosecuting officer of all trial courts in that circuit and shall perform other duties prescribed by general law) (emphasis added); *see also* *Valdes v. State*, 728 So.2d 736, 738 (Fla. 1999); *cf.* *State v. Bloom*, 497 So. 2d 2, 3 (Fla. 1986)(charging discretion has only been curbed by the judiciary “in those instances where impermissible motives may be

attributed to the prosecution, such as bad faith, race, religion, or a desire to prevent the exercise of the defendant's constitutional rights.”)

13. Under the Florida Statute, *see* Fla. Stat. Ann. § 27.14, the Governor can remove me only if he determines that for “good and sufficient reasons,” “the ends of justice would be best served” by removal. *Id.* Removing an elected prosecutor from a case because of a disagreement over her exercise of discretion is unprecedented. *State v. Cain*, 381 So.2d 1361, 1367 (Fla. 1980) (“[T]he discretion of a prosecutor in deciding whether and how to prosecute is absolute in our system of criminal justice.”); *see also Johnson v. State*, 314 So.2d 573, 577 (Fla. 1975) (“[T]he State Attorney is the prosecuting officer. In any particular case he may elect to prosecute or not.”)<sup>a</sup>

14. A “good and sufficient reason,” therefore, must be based on something more than a disagreement over how I should exercise my discretion in an individual case. Otherwise, the statute would impermissibly conflict with the Florida Constitution. The opposite conclusion is untenable: if a Court interpreted “good and sufficient reason” as broadly as the Governor has, the Governor could supersede an elected State Attorney on nearly every case.

15. Every day State Attorneys here in Florida make important decision on who to charge, what to charge, and what to prioritize. Giving the Governor the tremendous and unfettered discretion to interfere in that decision making, would be unprecedented and could undermine the entire justice system in Florida.

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<sup>a</sup> *Cf. See Wayte v. United States*, 470 U.S. 598, 607 (1985)(recognizing the breadth of a prosecutor's discretion, including the “decision whether or not to prosecute, and what charge to file or bring charges); *United States v. Mitchell*, 778 F.2d 1271, 1276 (7th Cir.1985)(stating that, regardless of whether the government violated the “*Petite Policy*”—an “internal guideline for the exercise of prosecutorial discretion”—such alleged violation “does not create a substantive right for the defendant which he may enforce, and *is not subject to judicial review*”) (emphasis supplied).

16. Prioritizing the rights of the victims' families and of the defendant, I respectfully ask this Court for the following:

- a. Set a motions' schedule so that I and the Governor can be fully heard.
- b. Allow the Governor's chosen State Attorney for this case to enter his intention to seek the death penalty so as not to jeopardize the 45 day notice requirement.

During the pendency of a hearing and decision on my authority to exercise my discretion without political interference in this and all other proceedings, I will fully share the investigative files for these two cases with the Governor's chosen State Attorney so that the investigations into both cases can continue without delay.

I CERTIFY that a copy hereof has been furnished to Jonathan Bull, [jbull@circuit9.org](mailto:jbull@circuit9.org) MARKEITH DEMANGZLO LOYD Inmate Orange County Jail, booking # 17001590 and Division99@circuit9.org, 435 North Orange Avenue, Suite 400, Orlando, FL 32801 by e-mail on this 20th day of March, 2017.

**/s/**

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