

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

FILED 

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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Case No. 6:08-cr-118-Orl-DDD-DAB

JUDE LACOUR,

Defendant
_____ /

DEFENDANT'S MOTION TO RECUSE THE LAW FIRM OF LEVENTHAL &
SLAUGHTER, LLP FOR CONFLICT OF INTEREST

1. On April 4, 2009 Defendant, Jude T. Lacour, a Pro Se inmate at Orange County Correctional Facility, respectfully moved this Court for a hearing concerning a conflict of interest that the law firm of Leventhal & Slaughter, LLP may have in continuing to represent defendant Akhil Baranwal.

2. On April 9, 2009, a hearing (that was initially scheduled to be heard on April 10, 2009) commenced at which time both Defendant and attorney Robert Leventhal testified under penalty of perjury, concerning the conflict issue.
3. Mr. Leventhal testified that co-defendant Akhil Baranwal previously proffered in the instant case and Defendant has not been provided with this information and or discovery. Notwithstanding, the Court has an obligation to compare this proffer to ascertain if confidential information provided by the Defendant to attorney Robert Leventhal was in conflict and or manipulated by prosecutor Karen Gable and others. As the Court already knows from Mr. Leventhal's confusing testimony, Mr. Leventhal admitted he had discussions with prosecutor Karen Gable concerning Defendant's case and the proffer of Akhil Barnawal raises more ethical and conflict related concerns involving prosecutor Karen Gable. The conflict issues involving Karen Gable will be raised separately in the near future.
4. Defendant met with attorney Robert Leventhal on or about October of 2005. His discussions with Leventhal were intense and the fact that Mr. Leventhal sent an email to Defendant on January 23, 2006, to inform him of a potential representation involving a doctor who was doing business with Jive Network would necessitate a waiver from both parties. In the cited email, Mr. Leventhal stated;

“....A doctor who wrote prescriptions for Jive has been informed by AUSA Gable that he will be indicted here in Orlando. He want's to come see my firm. If you will be retaining counsel in Orlando and still wish to utilize my firm, please let me know. If not I will go ahead and meet with him....”

5. Rule 1.7(b) [Conflict of Interest--General Rule] states:

A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interest, unless:

(A) the lawyer reasonably believes the representation will not be adversely affected; and

(B) the client consents after full disclosure and consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

6. Given the above, and other emails in Defendant's possession, it is clear that defendant made his case that Mr. Robert Leventhal and prosecutor Karen Gable deceived the Court by intentionally minimizing Mr. Leventhal's consultations with this Pro Se inmate and concealed their inherent conflict from the Court. The tacit accommodation between Robert Leventhal and Karen Gable permitted Mr. Leventhal to stay on the case to undermine the Defendant. As the Court was made aware, during his opening statement Mr. Leventhal deceitfully misrepresented information attributed to Defendant and that was just the opening salvo. Defendant is seeking recusal of attorney Robert Leventhal and his assistant for their inherent conflict that has adversely affected Defendant's standing before the jury.

CONCLUSION

For the reasons set forth, it is respectfully requested that the Defendant's Motion be granted.

I HEREBY CERTIFY that on April 12, 2009, I caused the foregoing to be filed with the Clerk of the Court and Assistant U.S. Attorney by hand delivering this motion to the following entities:

Clerk's Office, US. District Court
Middle District of Florida, Orlando Division
United States Courthouse, Suite 1200
401 West Central Boulevard
Orlando, FL 32801

Karen L. Gable, Assistant U.S. Attorney
501 W. Church St., Suite 300
Orlando, FL 32801

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Jude T. Lacour", is written over a horizontal line.

Jude T. Lacour, Pro Se Inmate