

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
THIRD DISTRICT

THE STATE OF FLORIDA AND
OFFICE OF CRIMINAL CONFLICT
AND CIVIL REGIONAL COUNSEL,
THIRD DISTRICT COURT OF
APPEAL REGION,

Appellants,

CASE NOS.: 3D08-2272
3D08-2537 (Consolidated)

vs.

PUBLIC DEFENDER, ELEVENTH
JUDICIAL CIRCUIT,

Appellee.

_____ /

**MOTION FOR CLARIFICATION OF THE OFFICE OF
CRIMINAL CONFLICT AND CIVIL REGIONAL COUNSEL,
THIRD DISTRICT COURT OF APPEAL REGION**

Pursuant to Florida Rule of Appellate Procedure 9.330(a), the Office of Criminal Conflict and Civil Regional Counsel, Third District Court of Appeal Region ("RC3") respectfully moves this Court for clarification of its footnote decision of May 13, 2009 affirming the trial court's denial of RC3's motion to intervene as untimely in the cases wherein the Public Defender moved to withdraw for excessive caseload and a lack of funding with a written opinion, and states:

1. In the opinion, this court stated, "Generally, standing requires 'a would-be litigant to demonstrate he or she reasonably expects to be affected by the outcome

of the proceedings, either directly or indirectly.’ *Hayes v. Guardianship of Thompson*, 952 So. 2d 498, 505 (Fla. 2006).” *State v. Public Defender, Eleventh Judicial Circuit*, 34 Fla. L. Weekly D963 (Fla. 3d DCA May 13, 2009). Under this definition of standing, RC3 has standing to oppose any motion of the Public Defender to withdraw because it will be directly affected as section 27.5303(1)(a), Florida Statutes (2008) requires that it be appointed to the cases from which the Public Defender withdraws.

2. In affirming the trial court’s denial of RC3’s motion to intervene as untimely, this court implied RC3 had standing to oppose the Public Defender’s motions. *Id.* at D966, n2.

3. RC3 requests clarification on the standing issue with a written opinion because on March 18, 2009, the Fourth District Court of Appeal issued an opinion in *Johnson v. State*, 34 Fla. L. Weekly D596 (Fla. 4th DCA March 18, 2009), whereby it held that the Office of Criminal Conflict and Civil Regional Counsel, Fourth District Court of Appeal Region (“RC4”) did not have standing to challenge a Public Defender’s motions to withdraw from representing indigent defendants.

4. The Fourth District Court of Appeal concluded in *Johnson* that because the Legislature did not specifically provide in the revised version of section 27.5303, Florida Statutes (2007) that RC4 had standing to object to the Public Defender’s

motions to withdraw, RC4 lacked standing to challenge the withdrawals. *Id.* Thus, according to the Fourth District's reasoning, RC3 may have lacked standing to oppose the Public Defender's motions to withdraw.

5. This Court's decision appears to conflict with the Fourth District's on the issue of RC3's standing to oppose the Public Defender's motions to withdraw.

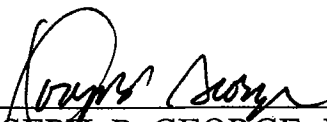
6. It is apparent that this Court's decision on RC3's standing to oppose the Public Defender's motions to withdraw in individual cases based upon a conflict caused by excessive workload or lack of funding will impact RC3 directly, will have a future statewide impact on the representation of a large number of indigent clients by court-appointed counsel in criminal cases, and will most certainly implicate an indigent criminal defendant's Sixth Amendment right to counsel.

WHEREFORE, RC3 respectfully requests this Court clarify the issue that it has standing to oppose a motion by the Public Defender to withdraw from a case with a written opinion, and additionally, to extend the time period for RC3 to move to certify the question to the Supreme Court of Florida as being of great public importance, and grant it such other relief as this Court deems necessary and proper.

Certificate of Compliance

I HEREBY CERTIFY that this document complies with the font requirements

of Fla. R. App. P. 9.210(a)(2), as the font is 14 point Times New Roman.



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Certificate of Service

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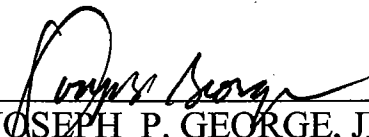
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