IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

*

THE UNITED STATES OF AMERICA

*

v. Criminal No.

*

DEFENDANT

* * * * *

MOTION TO WITHDRAW AS COUNSEL (*EX PARTE*)

James Wyda, Federal Public Defender for the District of Maryland, and Gary W. Christopher, Chief Assistant Federal Public Defender respectfully move for the order of this Court for an order allowing the Federal Public Defender to withdraw as counsel for defendant on the ground that an ethical conflict exists which bars further representation of Mr. Defendantby the Federal Public Defender for the District of Maryland. For their reasons Counsel state as follows:

1. This motion is filed *ex parte* out of concern that inferences as to Counsel's work product opinions, assessments, theories, and conclusions might be drawn from certain of the allegations herein which might otherwise not be available to the government. Counsel fear that Mr. R, through no fault of his own, may be prejudiced by the publication of these allegations to counsel for the government.

2. Defendant is charged in a three-count indictment with conspiracy to commit bank robbery in violation of 18 U.S.C. § 2, bank robbery in violation of 18 U.S.C. § 2113(a) and (f); and use and carrying of a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. § 924(c). Chief Assistant Federal Public Defender Gary W. Christopher has entered his appearance on behalf of Mr. Defendant pursuant to the order of this Court appointing the Federal Public Defender as counsel. Trial is scheduled for XXXXXXX.

3. Within the very recent past, as a result of certain discussions and negotiations with the government on behalf of another client of this Office, counsel have come to realize that the interests of Mr. Defendant are directly adverse to the interests of that other client and that any further representation of Mr. Defendant would be materially limited by the continuing responsibility owed by this Office to that other client. Although this Office has withdrawn from the representation of that other client, the conflict persists by virtue of counsel's duties under Rule 1.7 of the Maryland Rules of Professional Conduct, including the duty to disclose to Mr. Defendant the fact and implications of the other representation, under circumstances where such disclosure would likely harm the interests of the other client and violate a continuing duty owed to the other client. Counsel are of the view that continuing to represent Mr. Defendant would impose a duty of disclosure which would be barred by counsel's continuing duty to the other client.

4. Counsel has consulted extensively with the Supervisory Assistant Federal Public Defenders on this matter. Counsel is mindful of the inconvenience which his withdrawal may pose for the Court and are also sensitive to Mr. Defendant's interest in the continuity of counsel appointed on his behalf. Counsel are nevertheless of the view that the Federal Public Defender's representation of Mr. Defendant cannot continue.

5. Counsel are reluctant to disclose to the Court the nature of the conflict in any greater detail out of concern that the Court might thereby be privy to information which could prejudice the Court's assessment of legal or factual matters which may arise in the course of the trial. Should the Court believe that the granting of this motion requires a fuller understanding of the facts, counsel will be pleased to honor the Court's request for more information.

WHEREFORE, defense counsel request that their appearance as counsel for defendant herein be withdrawn on the ground that an ethical conflict exists.

Respectfully submitted,

JAMES WYDA
Federal Public Defender
for the District of Maryland

_____

Gary W. Christopher
Chief Assistant Federal Public Defender
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(410) 962-3962

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GR

* * * * *

ORDER

Upon the Motion of James Wyda, Federal Public Defender for the District of Maryland, and Gary W. Christopher, Chief Assistant Federal Public Defender, to withdraw as counsel for the defendant, [Name], herein on the grounds that an ethical conflict exists, it is hereby

ORDERED, this _____ day of _____, 2000, that the Federal Public Defender is hereby granted leave to withdraw as counsel for the defendant, [Name].

_____
Herbert N. Maletz
Senior United States District Judge