

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. 12-60049-Cr-ROSENBAUM

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
-v-)	
)	
ROGERIO CHAVES SCOTTON,)	
)	Fort Lauderdale, Florida
Defendant.)	May 28, 2014
)	10:27 a.m.

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TRANSCRIPT OF EX PARTE HEARING ON MOTION TO WITHDRAW
BEFORE THE HONORABLE ROBIN S. ROSENBAUM
U.S. DISTRICT JUDGE

APPEARANCES:

For the Defendant	JASON W. KREISS, ESQ. 1824 Southeast 4th Avenue Fort Lauderdale, Florida 33130
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REPORTED BY: (305) 523-5558	WILLIAM G. ROMANISHIN, RMR, FCRR, CRR Official Court Reporter 400 North Miami Avenue Miami, Florida 33128
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1 (Call to order of the Court)

2 THE COURT: All right. This is case number 12-60049,
3 United States versus Rogerio Chaves Scotton, and this is an ex
4 parte hearing with just the defendant and his counsel.

5 There has been a motion by defense counsel to
6 withdraw from representation in this case. It's my
7 understanding that it is based on the fact that Mr. Scotton is
8 appealing and that Mr. Kreiss believes that his expertise is
9 in the trial level as opposed to the appellate level.

10 Am I understanding this correctly?

11 MR. KREISS: Correct, Your Honor.

12 And more specifically, particularly in this case, you
13 know, we're not talking about a single jury instruction that
14 was given or not given or an argument by the Government. You
15 know, based upon, as stated in my motion, the 400-plus
16 entries, the motions that were filed, there are, I think,
17 about close to a dozen members of the CJA panel that
18 concentrate specifically in appellate litigation.

19 THE COURT: That's true. We have specifically
20 impaneled a group of lawyers whose expertise is in the area of
21 appeals. Some of them also handle trials. But for the most
22 part, they exclusively handle appeals and that's what their
23 focus is. That's a different type of practice than the trial
24 practice is. And while a trial attorney certainly has the
25 ability and qualifications to represent a defendant on appeal,

1 I would be receptive to appointing an appellate specialist for
2 Mr. Scotton, if that's what Mr. Scotton desires.

3 Did you want to take some time to discuss this at all
4 with Mr. Scotton?

5 MR. KREISS: If that's the Court's inclination, based
6 upon our attorney-client communications, I think that would be
7 Mr. Scotton's wishes. But I will confer for a second, if
8 that's what you want.

9 THE COURT: All right. Take your time.

10 THE DEFENDANT: Yes, Your Honor. That would be
11 great.

12 THE COURT: So, Mr. Scotton, is it your desire that I
13 relieve Mr. Kreiss of his appointment and appoint for you
14 someone from our CJA appellate panel instead?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Okay. Has anybody forced you to make
17 this decision?

18 THE DEFENDANT: No, Your Honor.

19 THE COURT: Are you doing it of your our free will?

20 THE DEFENDANT: Yes. As I spoke to him before, he
21 thought it was the better way to do this.

22 THE COURT: Very good. In just a minute I will let
23 you know who that person is.

24 Who's next on our list of appellate attorneys?

25 THE COURTROOM DEPUTY: Richard Klugh.

1 THE COURT: Richard Klugh. All righty. We'll go
2 ahead and appoint Richard Klugh for you.

3 Well give you Mr. Klugh's contact information in case
4 you want to contact him directly, and we will also let him
5 know that he has been appointed to represent you.

6 THE DEFENDANT: Your Honor, can I ask a question?

7 THE COURT: Sure.

8 THE DEFENDANT: The last time, the Judge recommended
9 that I stay local during the situation of my mother. She's
10 going to surgeries the following week right now. So I'm
11 trying to understand what is my time frame here of seeing the
12 panel lawyer and start up this process here, you know.

13 MR. KREISS: Have you been designated?

14 THE DEFENDANT: No.

15 MR. KREISS: I would just ask if he has been
16 designated -- if he's not designated, he's going to stick
17 around for a while.

18 THE COURT: My guess -- though I don't know -- is
19 that you will be returned to the Federal Detention Center
20 where you will stay until you've been designated to the
21 facility for you to serve your imprisonment. So the Federal
22 Detention Center, as you know, is in Miami.

23 THE DEFENDANT: Yes.

24 THE COURT: And then you would be transferred to
25 whatever facility you're going to serve the time at after

1 you're designated.

2 Am I right here?

3 THE MARSHAL: Yes, Your Honor. Once he has already
4 been sentenced, he has to go back to the Bureau of Prisons
5 down in Miami. We can't keep him up here in Broward. He's
6 not our prisoner anymore per se.

7 THE COURT: Okay.

8 THE DEFENDANT: One concern I have is it seems most
9 of the cases that I saw on this two years' experience here,
10 see that people go to prison, come back and appeal here. But
11 because I represented myself, I need to know how much time I'm
12 going to have with my appellate lawyer to go over the
13 proceedings.

14 THE COURT: That's a matter between you and your
15 appellate attorney. You know, as I said, we'll give you the
16 contact information, if you wish to call him. In the
17 meantime, we'll let him know that he has been appointed to
18 represent you. But we can't really get in the middle of your
19 discussions with your appellate attorney.

20 Do you understand?

21 THE DEFENDANT: Yes, Your Honor. Thank you.

22 THE COURT: Okay. Any other questions or issues that
23 we need to address?

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: All right. Then, thank you and have a

1 nice day.

2 THE DEFENDANT: You too, Your Honor.

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4 C E R T I F I C A T E

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6 I certify that the foregoing is a correct transcript
7 from the record of proceedings in the above-entitled matter.

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9 /s/

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