Filing # 192037010 E-Filed 02/15/2024 12:47:53 PM

IN THE COUNTY COURT OF THE ELEVENTH JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA FELONY DIVISION

STATE OF FLORIDA, Plaintiff, vs. KIM DEWAYNE CLENNEY, DEBORAH CLENNEY, COURTNEY TAYLOR CLENNEY, Defendant(s). _____/	§ § § §	CASE NO.: F24-2015-A/ F24-2015-B/ F24-2015-C BEFORE THE HONORABLE LAURA CRUZ

DEFENDANTS' MOTION TO SUPPRESS AND MOTION TO DISMISS FOR PROSECUTORIAL MISCONDUCT

COMES NOW, JOINTLY, the Defendants, Kim, Deborah and Courtney Clenney, and hereby move this honorable court, pursuant to Florida Rule of Criminal Procedure 3.190(g)(1)(E) to suppress any and all physical evidence or statements procured from the search of the Defendants' iCloud account resulting from an unlawful breach of attorney client privileged communications. The Defendants further move for an order of dismissal for the violation of the Defendants' due process rights as guaranteed by 5th Amendment to the United States Constitution and Article I, Sec. 9 of the Florida Constitution.

FACTS RELEVANT TO THE MOTION *SUB JUDICE*

1. The above-styled Defendants Kim and Deborah Clenney are the parents of Ms. Courtney Clenney. Courtney Clenney is the Defendant in Miami Dade Case No.: F22-14137.

2. The Defendants Kim and Deborah Clenney are both listed by the State of Florida as witnesses in Case No.: F22-14137.

3. In Case No.: F22-14137 the State has charged the Defendant Courtney Clenney in the death of her boyfriend,

4. The death of occurred on April 3rd, 2022, at the apartment of the Defendant Courtney Clenney that she shared with the decedent.

5. The apartment in question was under the name of Defendant Courtney Clenney.

6. All rent and utilities were paid for by Defendant Courtney Clenney.

7. Prior to April 3rd, 2022, Defendant Courtney Clenney had attempted to kick out the decedent from the apartment. Prior to the death, Defendant Deborah Clenney flew to Miami to help her daughter remove the decedent from the premises.

8. These efforts were unsuccessful.

9. Following Mr. 's death, crime scene units from the City of Miami Police Department and Miami Dade Police Department performed a sweep of the *locus en quo*.

10. Everything law enforcement deemed to have evidentiary value was impounded and documented.

11. Following the release of the premises by the City of Miami Police Department Crime Scene Unit, Defendants Kim and Deborah Clenney flew from their home in Texas to Miami to pack up the condominium unit.[1]

12. The Defendants Kim and Deborah Clenney waited until City of Miami finished processing the apartment as a crime scene and then were approved by law enforcement to enter and remove the remaining items.

13. The unit contained various items belonging to both Defendant Courtney Clenney and the decedent.

---

[1] It is important to note that prior to 's death he and Courtney Clenney had been evicted from the condominium. This matter was still a point of negotiation with building management.

14. Included with the items left in the apartment was a Black ASUS laptop computer.

15. This was a shared device that both Defendant Courtney Clenney and the decedent had access to.

16. On August 10th, 2022, the Defendant Courtney Clenney was formally arrested and charged with second degree homicide.

17. Following an *Arthur* hearing on November 15th and 17th of 2022, Defendant Courtney Clenney was ordered by this court to be held "no bond."

18. Defendant Courtney Clenney has been detained in the Turner Gilford Knight Correctional Facility since her arrest on August 10th, 2022.

19. On February 2nd, 2023, the City of Miami Police Department sought and obtained a search warrant for the iCloud accounts of Defendant Courtney Clenney as well as the accounts of her parents, the instant Defendants, Kim and Deborah Clenney.[2]

20. The warrant sought access to the Defendants iCloud accounts from "November of 2020 to present." (at the time November of 2023).

21. Due to a failure by City of Miami detectives to timely access those accounts pursuant to the warrant, a second search warrant became necessary.

22. On November 3rd, 2023, City of Miami Police sought and obtained a near identical search warrant for the same above listed persons' iCloud accounts.

23. At the time of the execution of the second warrant, Defendant Courtney Clenney had been detained for 1 year and 3 months with no access to her iCloud account.

24. A search of Defendant Kim and Defendant Deborah's iCloud revealed a group chat including six (6) people. All five (6) people were part of the joint defense team.

25. Two (2) of the people on the group chat were the Defendants, Kim and Deborah Clenney.

---

[2] Undersigned counsel avers that there were issues with the probable cause set forth in the warrant which would render the warrant invalid, and all evidence secured subject to suppression. This issue will be the subject of a second forthcoming motion to suppress.

26. One (1) person was a legal assistant employed by the law firm representing the Clenney family.

27. The remaining two (2) people were the Clenney family attorneys, Frank Prieto and Sabrina Puglisi.

28. The Clenneys first established their attorney-client relationship with Mr. Prieto and Ms. Puglisi in April of 2022. (see Exhibit "A")[3]

29. A review of the privileged communications between the Clenneys and their legal team revealed that among the belongings retrieved from Defendant Courtney Clenney's apartment was the subject laptop computer.

30. Included within the group chat were various discussions about the laptop and methods for reviewing its contents.

31. Defendant Courtney Clenney was detained in Miami Dade County and could not personally access the laptop.

32. Accordingly, there were discussions held between Defendants Kim and Deborah and attorneys Prieto and Puglisi about securing the pass code from Defendant Courtney Clenney.

33. Defendant Courtney Clenney provided the attorneys a four (4) digit code that accessed the computer.

34. Once it was determined that the computer could be accessed, it was closed, and no files were reviewed or accessed by the Defendants.[4]

35. The computer was retrieved by counsel and returned to Miami, Florida to be forensically analyzed by a defense expert.

---

[3] Exhibit "A" is a signed retainer agreement between Kim, Deborah, and Morgan Clenney and the Prieto Law Firm and Puglisi Carames. The Exhibit will be filed under separate cover and provided to the court as it contains confidential and privileged material and undersigned requests that it be reviewed *in camera*. (See, *Butler v. Harter*, App. 1 Dist., 152 So.3d 705 (2014) and *RC/PB, Inc. v. Ritz-Carlton Hotel Co., L.L.C.*, App. 4 Dist., 132 So.3d 325 (2014)).

[4] Defendant Deborah Clenney did not access the computer which will be the subject of another motion to be filed in this case. Additionally, all acts occurred in Texas which will be the subject of future motions to be filed in this case.

36. By reviewing the privileged communications between the counsel and the Defendants, law enforcement ascertained the location of the defense IT expert's home.

37. All illegally accessed text messages reviewed by law enforcement indicated great efforts by the defense team to preserve the item as well as to ensure that a proper chain of custody was maintained.

38. Neither the City of Miami Police Department, Miami Dade Police Department, nor the Miami Dade State Attorney's Office had reason to believe that the laptop in question was in jeopardy of being tampered with or destroyed, nor did they have reason to believe that the computer contained any information of evidentiary value since law enforcement left it behind after their collection of evidence and sweep of the apartment shared by Defendant Courtney Clenney and the decedent.

39. Nevertheless, on January 30, 2024, the Miami Dade Police Department executed a search warrant on the home of the retained defense expert and impounded the laptop.[5]

40. Based entirely on a review of the privileged attorney-client messages the State Attorney's Office issued an extradition warrant to arrest the Defendants in their home in Texas and filed an information charging Kim Clenney and Deborah Clenney with "Unauthorized Access to a Computer" in contravention of Florida Statute §815.06.

I. ATTORNEY CLIENT PRIVILEGE

The attorney-client privilege is sacred and is integral to the function of the legal system. Its reasoning and intent could not be more essential or noble. "[The] policy underlying attorney-client privilege is to promote administration of justice." *U.S. v. Gordon Nikkar*, 518 F.2d 972 (5th Cir. 1975).

> "The oldest and most respected privilege known to the legal profession is the attorney-client privilege. The confidentiality inherent in the privilege lies at the heart of the American judicial system. It is well accepted and

> generally understood that communications between an attorney and an individual client are confidential. Confidentiality encourages people to seek legal assistance early and promotes communication between the attorney and the client."

Marion J. Radson, *The Attorney-Client Privilege and Work-Product Privileges of Government Entities*, Volume XXX, Winter 2001, Number 3, Stetson Law Review.

The attorney-client privilege dates back to the 1500s and finds its roots in English Common law. It is memorialized today in Florida Statute 90.502. Florida Statute §90.502 states in pertinent part:

90.502 Lawyer-client privilege. —

(1) For purposes of this section:

(a) A "lawyer" is a person authorized, or reasonably believed by the client to be authorized, to practice law in any state or nation.

(b) A "client" is any person, public officer, corporation, association, or other organization or entity, either public or private, who consults a lawyer with the purpose of obtaining legal services or who is rendered legal services by a lawyer.

Communications between an attorney and their client are privileged so as to allow for the free and unfettered relay of information. "The purpose of the [attorney-client] privilege is to encourage clients to make full disclosure to their attorneys." *Fisher v. United States,* 425 U.S. 391, 403, 96 S.Ct. 1569, 48 L.Ed.2d 39 (1976). Only when a client is confident that their communications are confidential is it possible, they can speak frankly, which allows their counsel to discharge their duty of representation effectively and ethically. This is precisely why Florida Bar Rule Code of Conduct 4-1.6 prohibits an attorney from disclosing confidential information imparted to him or her by his or her client. Perhaps more importantly, and more germane to this motion, Fla. Stat. §90.502 also prevents

outside parties (including government agencies) from knowingly obtaining or compelling information that is privileged. "[T]he privilege protects the client from compelled disclosure of confidential information by third parties in judicial and other proceedings." *Supra*. An intrusion into that sacrosanct privilege undermines the integrity of the criminal justice system. When that intrusion is done under the pretense of a lawful action by the State Attorney's Office, the very entity charged with the task of upholding the law, the faith in our system irreparably erodes.

In the matter before the court the State used the guise of judicial process in the form of a search warrant aimed at a homicide investigation to retrieve communications, notes, photos, and all manner of other private data contained within the iCloud accounts of the Defendants and Defendant Courtney Clenney. Although the affidavit in support of the search warrant for the iCloud accounts is unclear as to what crime the State believed they had probable cause to investigate, it can be surmised that they were looking for messages or information that would undermine or negate Defendant Courtney Clenney's claim of self-defense. It should be noted that at the time of the search Defendant Courtney Clenney had been detained for over a year and her only communications with her family were via non-confidential jail calls. The affidavit in support of the search warrant alleges the need to review the communications dating back to the beginning of Defendant Courtney Clenney's communications with the decedent. This begs two questions- why were communications on the iCloud account of Defendants Kim and Deborah invaded? Secondly, why were any communications following Courtney Clenney detention subject to search. Defendant Courtney Clenney was incapable of being involved in or related to

the communications searched by the State following her incarceration on August 10, 2022. There was no probable cause to believe that Defendants Kim and Deborah had committed a criminal offense or were engaged in anything other than work-product attorney client communications with their daughter's defense team. While the piercing of the attorney client privilege is most troubling, the fishing expedition by the State into messages that were unrelated to the case in chief is also problematic.

During the comprehensive and overly broad search, the State found communications with two other individuals that they immediately identified as attorneys. The communications that were intercepted pertained to strategy and evidence in Defendant Courtney Clenney's case. This was readily apparent to law enforcement and known immediately upon first blush. All review of the text exchanges, especially those within the group including the lawyers, should have been ceased the moment it became known that this was an attorney-client communication. The content of the messages made it clear that these were communications between the defense team and about the defense of the case. Instead, law enforcement took three (3) separate and equally flawed approaches to ensure that they could freely review the contents of the messages.

First, law enforcement advises that they employed a filter team or software to review the messages and ascertain if there were any privileged communications. The process and procedure employed by that filter team is the subject of a Motion to Compel filed in Case No.: F22-14137 (DE#:161) by Defendant Courtney Clenney; however, whatever those processes may have been, they were clearly flawed and ineffectual. Not only did the filter team fail to identify a clearly confidential attorney-client communication

between the Defendants and two of their lawyers, but they also highlighted those messages and provided them directly to the investigating officers and ultimately the State Attorney's Office to review and scour for potential criminal acts. Secondly, as is proffered in the affidavit in support of the arrest warrant of the Defendants, it is the position of the State and the Miami Dade Police Department that "Individuals 1,2,3 or 4 (the lawyers) represent Subject 1(Courtney Clenney) in her underlying case. Subjects 2 and 3 are not clients of Individuals 1,2,3, or 4 as defined by section 90.502." (DE: 5 p. 5) This is not accurate and will be addressed in more detail below. Thirdly, the affiant to the arrest warrant postulates that "[s]ubjects 2 and 3, as listed witnessed in Subject 1's underlying case, were subject to legal process and therefore could not be represented by Individuals 1,2,3, or 4." *Id.*[6] This presumably refers to the Defendants in this case being listed as State witnesses. This position is unsupported by any citation to statute or precedent and is very much inaccurate. The concept that the act of being listed as a witness by the State automatically acts to forfeit the right to confidentiality with their attorney is nonsensical. Employing *reductio ad absurdum in arguendo*, this would mean that the State can pierce the attorney-client privilege simply by filing a witness list including the target of their investigation. It further begs the question what other privilege does being a State listed witness obviate? If a wife is listed as a State Witness and retains her own attorney, can the State then subpoena that attorney to testify in a prosecution of the wife's husband? Does listing a doctor or priest as

[6] Presumably this was the position of Miami Dade Police acting without the benefit of counsel either from their own legal department or the Miami Dade State Attorney's Office since it is non-sensical and ungrounded in law.

a State Witness eliminate the confidentiality therein as well? The practical implications of such suggestion by law enforcement immediately reveal the fatal flaws in their logic. The fact that such flawed logic was then relied on to allow them to go rooting through privileged communications to fabricate a crime now warrants this court's intervention.

II. THERE IS AN ATTORNEY-CLIENT RELATIONSHIP BETWEEN THE CLENNEYS AND MR. PRIETO AND MS. PUGLISI.

The State definitively states that "Frank Prieto and Sabrini Puglisi did not represent Kim and Deborah Clenney"; they **only** represented the Defendant, Courtney Clenney. ("State of Florida's Motion to Strike and Response to Defendant's Motion to Compel. DE#: 170 at p.3) (Emphasis in the original). This is not accurate. Despite the State's unlawful invasion of the defense camp, they are not privy to the relationship between counsel and the Clenneys and they took no affirmative steps to determine whether a privilege existed. By way of this pleading undersigned clarifies the State's misconception and definitively states to this court- **Frank Prieto and Sabrina Puglisi represent the Clenney family, which includes Kim Clenney, Deborah Clenney, and Morgan Clenney.** Their attorney-client relationship began following the incident on April 3, 2022, and was memorialized via a written and signed retainer agreement on September 22, 2022. This was done precisely to maintain the privilege between all parties of the defense team so that communications could be had freely about the defense strategy as the Clenney's were active participants in the defense of their daughter.

The State further relies on a citation to the Rules of Professional Conduct, specifically Fla. R. Reg. Bar 4-1.7; 4-1.9; 4-1.10 to suggest that no attorney client

relationship could ethically exist. Notwithstanding that the regulation of lawyer conduct and properness of representation of multiple parties is outside the State Attorney's authority and rests solely within the purview of the Florida Bar, this court, and the Florida Supreme Court, the State misunderstands the very rules it cited in its "Motion to Strike and Response to Motion to Compel." *Supra*. The cited rules do not create a hardline rule precluding joint representation, but rather establish guardrails for properly informing clients and securing proper waiver. First and foremost, Fla. R. Reg. 4-1.7 and 4-1.9 state:

> **RULE 4-1.7 CONFLICT OF INTEREST; CURRENT CLIENTS**
> (a) Representing Adverse Interests. Except as provided in subdivision (b), a lawyer must not represent a client if:
> (1) the representation of 1 client will be directly adverse to another client: or
> (2) there is a substantial risk that the representation of 1 or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person, or by a personal interest of the lawyer.

> **RULE 4-1.9 CONFLICT OF INTEREST; FORMER CLIENT** A lawyer who has formerly represented a client in a matter must not afterwards:
>
> (a) represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent;

There is no risk that the interests of the Defendants Kim and Deborah Clenney would run afoul of the interests of their daughter. Furthermore, both the Defendants in this case as well as in Defendant Courtney Clenney's case executed a knowing and voluntary waiver of any conflict that may arise. (see Exhibit "A"). The simple fact that the State has listed the Defendants as State witnesses in Defendant Courtney Clenney's does not mean that their testimony will be adverse to their daughter's interests. Furthermore, the State fails to acknowledge yet another lynchpin of the criminal justice system- the Defendants' 6th

Amendment right to counsel of their choosing. The trial court retains certain discretion to determine if any representation would create an "actual conflict." While "permitting a single attorney to represent codefendants ... is not *per se* violative of constitutional guarantees of effective assistance of counsel," *Holloway v. Arkansas*, 435 U. S. 475, 482 (1978), a court confronted with and alerted to possible conflicts of interest must take adequate steps to ascertain whether the conflicts warrant separate counsel. See also *Cuyler v. Sullivan*, 446 U. S. 335 (1980).

The court is certainly invited to colloquy all defendants as to their understanding of the waiver, however, in order to invade this fundamental right and disallow counsel, or in this instance as the State is suggesting, retroactively negate the attorney client relationship, the court would need to find that an "actual conflict" existed. The conflict, however, would need to be so prevalent and unwaivable that the Defendants in this case would no longer be entitled to rely on their understood attorney client relationship and expected confidentiality. At the time of the Defendant Kim and Deborah Clenneys retention of Mr. Prieto and Ms. Puglisi they were not even witnesses and certainly not defendants. No conflict existed at the time the Clenneys retained counsel for themselves, and their daughter. No conflict existed until the time the State invaded that relationship to bootstrap a criminal charge against the Defendants.

Even if this court were to find a conflict to the degree the State suggests the communications would still remain confidential. The attorney-client privilege extends to the necessary intermediaries and agents through whom such communications are made. ("As a preliminary matter, we agree with the trial court that Gerheiser's conversation with

Brabham was protected by the attorney-client privilege, as she was acting as an agent for her son for the purpose of securing legal representation for him. In responding to the petition for certiorari, the State did not argue to the contrary.") *Gerheiser v. Stephens*, 712 So2d 1252, 1254 (Fla. 4th DCA 1998). Not only did the Defendants retain and establish an attorney-client relationship with Mr. Prieto and Ms. Puglisi, but every communication between the parties was directly related to the representation of Defendant Courtney Clenney and was work-product and privileged.

> How these two pillars of our legal system-the attorney-client privilege and the Fourth Amendment-interact is not self-evident. While it may be true that "[the attorney-client privilege is an evidentiary privilege, not a constitutional right, it is also true that "the government's violation of [the] attorney-client privilege ... may give rise to constitutional concerns… [the] Constitution does not require a jurisdiction to recognize the attorney- client privilege is not to conclude that the government can violate the privilege without violating the Constitution… It seems clear, for example, that citizens have an expectation of privacy in their privileged communications with attorneys; the privilege attaches only to communications made in confidence." It also seems clear, given the universal acceptance of the attorney-client privilege, that that expectation is reasonable. Thus, when government agents access privileged attorney-client communications, they conduct a search within the meaning of the Fourth Amendment. (Internal Citations Omitted).

Eric D. McArthur, *The Search and Seizure of Privileged Attorney-Client Communications,* Volume 36, University of Chicago Law Review, 2004.

The State's access of those confidential communications is violative of the sacred attorney-client privilege and the Defendant's 4th Amendment Right against unlawful search and seizure. Such violations warrant suppression and dismissal.

III. THE CONDUCT OF LAW ENFORCEMENT AND THE STATE ATTORNEY'S OFFICE IS SO EGREGIOUS THAT IT VIOLATES THE CORE SENSE OF

FAIRNESS AND JUSTICE AND COMPELS THE DISMISSAL OF THE CHARGES.

Law enforcement's actions in reviewing the confidential messages between the Defendants and their attorneys were unlawful and creates a dangerous precedent. By the logic espoused in the affidavit support of the arrest warrant, the State merely needs to list a witness to circumvent their attorney-client relationship. If these charges are allowed to stand, every criminal defense lawyer can now be compelled to testify against their client. Every note taken in an attorney-client meeting can be the subject of compulsory process. Every email or text message between a lawyer and their client could be targeted simply by law enforcement suggesting to a receptive judge, "we think they maybe discussed the criminal act." The search warrant for the iCloud accounts was a "fishing expedition." The warrant itself fails to set forth what crime there was probable cause to believe that these Defendants had committed. Nevertheless, anticipating the State's reliance on a "good faith" exception argument, it is important to note that a judge's signature on a warrant does not give law enforcement *carte blanche* to ignore all legal principles and protections. The idea that a privilege so well-known and universally protected was simply ignored in the hopes of uncovering some illegal act offends the very principles of due process. Neither Judge Cabarga nor later Judge Wolfson had either the authority, or presumably the intent, to invade the attorney-client privilege. And the use of the filter team failed in its only function as evidenced by the very fact that the confidential text messages were not only read, but then used to prop up an untenable criminal charge.

When the actions of the State are so egregious it becomes incumbent upon this court to impose a sanction that is severe enough to deter future government officials from believing they can employ similar disingenuous tactics. As Justice Brandeis opined in his dissent in *Olmstead v. United States*, 277 U.S. 438, 485 (U.S. 1928):

> Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution. Against that pernicious doctrine this court should resolutely set its face.

Faith in the legal system is integral to the function of our society. The only way that faith can be maintained is if the rules are applied equally to all entities. The State Attorney's Office does not get special authority or get to evade judicial oversight simply by being part of the Executive Branch of Government. In fact, it is rather the opposite. The system is designed to allow checks and balances within the branches so when one acts improperly (as the State has here) the court can step in and remedy the improper action.

In this instance there has been an egregious flouting of the sacred principle of the attorney-client privilege. Doing so violated the Defendants' due process rights as guaranteed by 5th Amendment to the United States Constitution and Article I, Sec. 9 of the Florida Constitution. Such a due process violation requires the court to impose the severest of sanctions and dismiss the information. "Moreover, the protection of due process rights

requires that the courts refuse to invoke the judicial process to obtain a conviction where the facts of the case show that the methods used by law enforcement officials cannot be countenanced with a sense of justice and fairness." *State v. Williams*, 623 So. 2d 462, 467 (Fla. 1993).

IV. CONCLUSION

The court finds itself at the intersection of two fundamental principles of law. The attorney client-privilege and attorney-client confidentiality. The State's actions in this case offend both. "[T]he attorney-client privilege, which includes the work product doctrine, is governed by the Florida Evidence Code and is, therefore, a matter of law…the confidentiality rule pertains to disclosures outside of judicial and administrative hearings and applies in situations other than those where evidence is sought from the lawyer through subpoena or other compulsion of law." Deena E. Rahming, Assistant Bar Ethics Counsel, *The Attorney Client Privilege v. Confidentiality Rule: A Lawyers' Conundrum in the Use and Application of the Evidence Code v. the Rules of Professional Conduct.* The Florida Bar News, June 20, 2023.

The communications rooted through by the State in this matter were private, privileged, and unrelated to any criminal offense. The suggestion that a photograph or text message from 2020 would provide any evidence of an alleged heat of the moment homicide that occurred in 2022 defies logic. To then include the above styled Defendants in that search, invading the privacy of two uncharged persons electronic communications compounds the State's foley. Lastly and perhaps most egregiously, the State and law

enforcement simply chose to ignore what they knew to be confidential and privileged communications to pursue what can only be described as frivolous charges against the Defendants. Accordingly, this court should suppress any and all physical evidence or statements procured from the search of the Defendants' iCloud account resulting from an unlawful breach of attorney client privileged communications. Furthermore, this court should dismiss the charges against the Clenneys because the egregious actions of the State violated the Defendants' due process rights as guaranteed by the 5th Amendment to the United States Constitution and Article I, Sec. 9 of the Florida Constitution.

WHEREFORE, the above styled Defendants do jointly move for this honorable court to enter an order suppressing all statements, messages, physical evidence secured in violation of the Defendants' 4th amendment right against unlawful search and seizure and further moves for an entry of this court's order dismissing the pending information against the Defendants due to the blatant and unlawful violation of their due process rights. Alternatively, the Defendants request this matter be set for an evidentiary hearing wherein the parties may subpoena and call a witness to provide testimony to further aid in the court's ruling.

[CERTIFICATE OF SERVICE ON FOLLOWING PAGE]

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was forwarded to all interested parties via the Florida e-File portal on this 15th day of February 2024.

Respectfully submitted,

RATZAN & FACCIDOMO, LLC
ATTORNEYS AT LAW
2850 Tigertail Avenue, Suite 400
Miami, Florida 33133
305 374-5730 Office
305 374-6755 Fax
Jude@rflawgroup.com
Mycki@rflawgroup.com

By: s/ Jude M. Faccidomo
Jude M. Faccidomo, Esquire
Florida Bar No. 12554

By: s/ Mycki Ratzan
Mycki Ratzan, Esquire
Florida Bar No. 915238

LAW OFFICES OF KAWASS, P.A.
780 Tamiami Canal Road
Miami, Florida 33144-2553
305-521-0490 Office
Tara@kawasslaw.com

By: s/ Tara Namat Kawass
Tara Namat Kawass
Florida Bar No. 54494

EXHIBIT "A"

CONFIDENTIAL

RETAINER AGREEMENT BETWEEN "THE CLENNEY FAMILY", "PRIETO LAW FIRM", AND "PUGLISI CARAMES LAW"

RATZAN & FACCIDOMO LLC

2850 Tigertail Avenue,
Suite 400, Miami, FL 33133
Tel. 305.374.5730
Fax. 305.374.6755

www.rflawgroup.com