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IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT, IN
AND FOR SEMINOLE COUNTY,
FLORIDA

CASE NO.: 59-2012-CF-1792-A

STATE OF FLORIDA

VS.

SHELLIE ZIMMERMAN
_____ /

FILED IN OFFICE
MARYANNE MORSE
CLERK, CIRCUIT COURT
13 JAN 18 AM 10:42
BY SEMINOLE CO. FLA. D.C.

**STATE'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS OR, IN THE
ALTERNATIVE, PETITION FOR WRIT OF QUO WARRANTO**

The State of Florida, by and through the undersigned Assistant State Attorney, files this response to the Defendant's Motion to Dismiss or, in the Alternative, Petition for Writ of Quo Warranto. The State moves this Honorable Court for an Order denying said motion. In support thereof, the State submits the following:

SUMMARY OF FACTS

1. The Defendant is charged with one count of Perjury, pursuant to Section 837.02(1), Florida Statutes. Said charge was filed via a capias on June 11, 2012.

2. In the above-referenced motion, the Defendant seeks to have this Court dismiss her Perjury charge, or in the alternative, find that State Attorney Angela Corey has exceeded her authority in charging the Defendant.

3. On March 22, 2012, Florida Governor Rick Scott, pursuant to Executive Order 12-72, appointed Ms. Corey to "discharge the duties of the Honorable Norman Wolfinger, State Attorney for the Eighteenth Judicial Circuit of Florida, as they relate to the

investigation and all matters pertaining to the death of Trayvon Martin” (Emphasis added, Order 12-72 attached as Exhibit A). The Order further stated that the appointment of Ms. Corey was “in the best interest of the State of Florida and of the ends of justice” (see Exhibit A). The Order added that the appointment of Ms. Corey was “to avoid the appearance of conflict of interest or impropriety” (see Exhibit A).

4. On April 11, 2012, the State of Florida, charged the Defendant’s husband George Zimmerman, with the Second Degree Murder of Trayvon Martin.

5. On April 20, 2012, at a bond hearing for George Zimmerman, Mr. Zimmerman’s attorney called Shellie Zimmerman to testify on behalf of her husband. Specifically, Shellie Zimmerman testified, in part, about money available to George Zimmerman to make bond. It is from that testimony that the Defendant’s Perjury charge arose.

6. On December 18, 2012, Florida Governor Rick Scott, pursuant to Executive Order 12-279, extended the assignment of Ms. Corey for an additional year. Said Order further specified that the assignment of Ms. Corey include “the cases filed against George Zimmerman and Shellie Zimmerman” (Order 12-279 attached as Exhibit B).

SUMMARY OF LAW

It is the State’s position that the Defendant’s Perjury charge is within the scope of “all matters pertaining to the death of Trayvon Martin.” Based on the broad language used in the Executive Order it is clear that the purpose of the assignment was to absolve Mr. Wolfinger of all matters related to the death of Trayvon Martin. Furthermore, the language of the Executive Order does not limit the investigation to any specific person. Rather, the intent of the Executive Order was to give Ms. Corey the same authority as Mr. Wolfinger; that is to investigate and prosecute anything with reference to the death of Trayvon Martin.

In Hall v. State (136 Fla. 644, 187 So. 392), a case addressing the authority of a State Attorney assigned by Executive Order, the Supreme Court of Florida noted that a State Attorney assigned by Executive Order “was clothed with all the powers and privileges

of the prosecuting attorney” from which the assignment originated (Id. at 661). The Court went on to hold that “a state attorney in this State is not merely a prosecuting officer in the Circuit in which he is appointed; he is also an officer of the State in the general matter of the enforcement of the criminal law, subject to the assignment by the Governor to any County in any Circuit of the State” (Id. at 657). The Court in Hall further explained that an assigned State Attorney “became in effect the State Attorney pro tempore . . . in so far as was necessary to fully effectuate the intent and purpose of said order.” (Id. at 661)

Similarly, in Giamo v. State (245 So.2d 116, 3rd DCA 1971), the Court held that the fact that an Information was signed by a State Attorney assigned to another judicial circuit by Executive Order did not render the Information insufficient.

The State further submits that common sense dictates that the prosecution of the Defendant is within the intended authority of the Executive Order. If Mr. Wolfinger needed to recuse himself “to avoid the appearance of conflict of interest or impropriety” regarding the death of Trayvon Martin, certainly Mr. Wolfinger would have had a similar issue with the investigation and/or prosecution of the wife of the person subsequently charged with Trayvon Martin’s murder. In Walker v. State (93 Fla. 1069, 113 So. 96), a case in which the Defendant objected to the Executive Order on the grounds that the order did not specify with sufficient particularity the cause in which the assigned State Attorney should act as State Attorney, the Court noted it was doubtful the defendant could raise the point as the assigned State Attorney was an officer named in the Constitution, and was acting under color of authority. (Id. at 1074)

Finally, subsequent to charges being filed against George Zimmerman and the Defendant, Governor Scott issued Executive Order 12-279, which expressly and specifically authorizes Ms. Corey to prosecute the Defendant’s case.

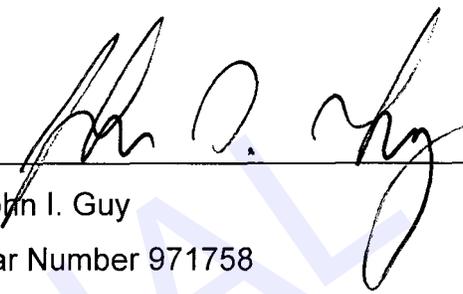
WHEREFORE, the State of Florida moves this Honorable Court to Deny the Defendant’s Motion.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing motion has been furnished by e-mail, to Kelly B. Sims, Attorney for the Defendant, this 17th day of January, 2013.

Angela B. Corey
STATE ATTORNEY

By: _____


John I. Guy

Bar Number 971758

Assistant State Attorney

UNOFFICIAL

FILED

A

2012 MAR 22 11 00 AM
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

STATE OF FLORIDA

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NUMBER 12-72

WHEREAS, the Honorable NORMAN R. WOLFINGER, State Attorney for the Eighteenth Judicial Circuit of Florida, has advised Governor RICK SCOTT that the death of Trayvon Martin is currently under investigation; and

WHEREAS, the Honorable NORMAN R. WOLFINGER, to avoid any appearance of conflict of interest or impropriety, has voluntarily disqualified himself and has requested the executive assignment of another State Attorney with respect to the investigation of this case and all related matters; and

WHEREAS, the Honorable ANGELA COREY, State Attorney for the Fourth Judicial Circuit of Florida, has agreed to accept an executive assignment in this matter; and

WHEREAS, it is in the best interest of the State of Florida and of the ends of justice that the Honorable ANGELA COREY discharge the duties of the Honorable NORMAN R. WOLFINGER, pursuant to section 27.14, Florida Statutes;

NOW, THEREFORE, I, RICK SCOTT, Governor of Florida, in obedience to my solemn constitutional duty to "take care that the laws be faithfully executed," and pursuant to the Constitution and laws of the State of Florida, issue the following Executive Order, effective immediately:

Section 1.

The Honorable ANGELA COREY, State Attorney for the Fourth Judicial Circuit of Florida, referred to as the "Assigned State Attorney," is assigned to discharge the duties of the Honorable NORMAN R. WOLFINGER, State Attorney for the Eighteenth Judicial Circuit of Florida, as they relate to the investigation and all matters pertaining to the death of Trayvon Martin.

Section 2.

The Assigned State Attorney or one or more Assistant State Attorneys and Investigators, who have been designated by the Assigned State Attorney, shall proceed immediately to the Eighteenth Judicial Circuit of Florida, and are vested with the authority to perform the duties prescribed herein.

Section 3.

All residents of the Eighteenth Judicial Circuit are requested, and all public officials are directed, to cooperate and render whatever assistance is necessary to the Assigned State Attorney, so that justice may be served.

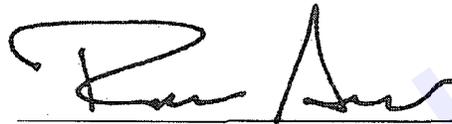
Section 4.

The period of this Executive Assignment shall be for one (1) year, to and including March 22, 2013.

Section 5.

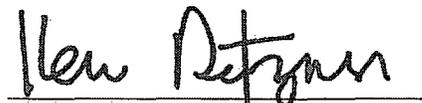
The Assigned State Attorney shall notify the Governor on or before February 22, 2013,
if additional time is required.

IN TESTIMONY WHEREOF, I have hereunto
set my hand and have caused the Great Seal of the
State of Florida to be affixed at Tallahassee, this
22th day of March, 2012.



GOVERNOR

ATTEST:


SECRETARY OF STATE

STATE OF FLORIDA
OFFICE OF THE GOVERNOR
EXECUTIVE ORDER NUMBER 12-279

WHEREAS, the Honorable ANGELA COREY, State Attorney for the Fourth Judicial Circuit of Florida, was previously assigned by Executive Order 12-72 to the Eighteenth Judicial Circuit of Florida to represent the State of Florida concerning an investigation into the death of Trayvon Martin; and

WHEREAS, the Assigned State Attorney has advised the Governor that the duties required by the previous executive assignment have not yet been completed as the cases filed against George Zimmerman and Shellie Zimmerman, as a result of the investigation, are pending; and

WHEREAS, the Assigned State Attorney has further advised the Governor that an extension of this assignment is necessary in order to complete the assigned duties; and

WHEREAS, it is in the best interests of the State of Florida and of the ends of justice that the assignment of the Assigned State Attorney be continued with respect to the above matters, pursuant to Section 27.14, Florida Statutes.

NOW, THEREFORE, I, RICK SCOTT, Governor of Florida, in obedience to my solemn constitutional duty to "take care that the laws be faithfully executed," and pursuant to the Constitution and laws of the State of Florida, issue the following Executive Order:

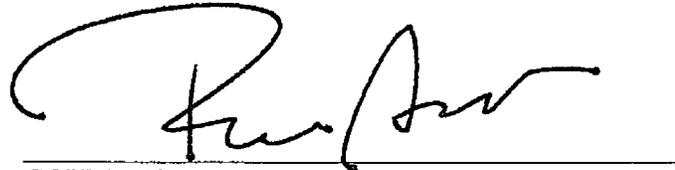
Section 1.

Executive Order 12-72 is reaffirmed and the executive assignment is extended for an additional period of one (1) year, to and including March 22, 2014.

Section 2.

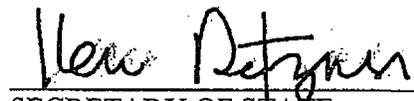
The Assigned State Attorney shall notify the Governor on or before February 14, 2014, if additional time is required.

IN TESTIMONY WHEREOF, I have hereunto set my hand and have caused the Great Seal of the State of Florida to be affixed at Tallahassee, this 18th day of December, 2012.



GOVERNOR

ATTEST:



SECRETARY OF STATE

FILED
2012 DEC 18 PM 2:51
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

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