

**IN THE CIRCUIT COURT
OF THE ELEVENTH CIRCUIT
IN AND FOR MIAMI-DADE
COUNTY, FLORIDA**

Criminal Division
Judge John W. Thornton
Division F15

THE STATE OF FLORIDA,
Plaintiff,

Case Number
F09-019364

vs.

ANTOINE BOWENS,

Defendant.

**APPENDIX TO EXHIBITS TO ASSISTANT PUBLIC DEFENDER'S MOTION TO
WITHDRAW AND TO DECLARE SECTION 27.5303(1)(d), FLORIDA STATUTES,
UNCONSTITUTIONAL**

Tab A	Affidavit of Jay Kolsky
Tab B	Affidavit of Carlos J. Martinez
Tab C	Affidavit of Norman Lefstein
Tab D	Affidavit of Robert C. Boruchowitz
Tab E	Affidavit of Frederick Freedman
Tab F	Affidavit of Jay Kolsky in Support of Motion to Withdraw from State v. Antoine Bowens, Case No. F09-19364

EXHIBIT F

STATE OF FLORIDA)
) SS
COUNTY OF MIAMI-DADE)

AFFIDAVIT OF Jay Kolsky in Support of Motion to Withdraw from State v. Antoine Bowens

BEFORE ME, the undersigned authority, personally appeared Jay Kolsky, who after being duly sworn, deposes and says:

1. My name is Jay Kolsky. I am of the age of majority, and the following information is true and correct. The following information is based either on my personal knowledge or on records of the Office of the Public Defender for the Eleventh Judicial Circuit of Florida ("PD-11") that were made by persons with personal knowledge, and made and kept in the regular course of PD-11's business.

2. I have filed another affidavit detailing my current caseload and other aspects of the conflict I am facing due to my high caseload. The purpose for this affidavit is to provide specific information relating to the work I have performed or not performed on case number F09019364, a degree felony case.

3. In the instant case, ANTOINE BOWENS was arrested on June 10, 2009, arraigned on July 1, 2009, and the case is set for court on October 22, 2009.

4. My client is facing a minimum mandatory sentence or enhanced sentence (e.g., HO, HVO, 10/20/life) if convicted in this case.

5. Due to my high caseload, to date, I have

- a. Not established a client-attorney relationship with my client.
- b. Not conducted an adequate face-to-face confidential interview of my client.
- c. Not initiated or conducted any investigation of this case.
- d. Not visited the crime scene, an essential and critical predicate to understanding the State's case and to developing a successful defense.
- e. Not conducted any legal research related to this case.
- f. Not consulted with an expert in this case.
- g. Not prepared any motions, other than a motion to compel discovery, in this case.
- h. Not developed a thorough working knowledge of the facts sufficient to counsel my client so that in the event my client elects to accept the State's plea offer, my client is in a position to make a knowing, intelligent and voluntary waiver of his constitutional rights. Other than the allegations that are contained in the arrest affidavit, I do not know enough about this case to be able to counsel my client if the State makes a plea offer before or at his next court date.
- i. Not conducted a thorough review of police reports.
- j. Not conducted a thorough review of the State's physical evidence.

- k. Not had a follow-up interview with this client to discuss discovered evidence.
- l. Not prepared voir dire, opening statements, direct and cross examinations, closing arguments, and jury instructions, research pertaining to anticipated legal issues at trial.
- m. Not developed mitigating evidence that would be useful in plea negotiations or at sentencing hearings.

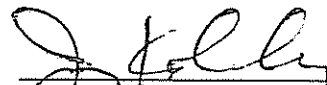
6. My client will be prejudiced by my inability to be ready for trial, as I may have to seek a continuance.

7. My client will be prejudiced by my inability to effectively counsel him/her about the case or any plea offer the State makes.

8. My client will be prejudiced by my inability to demand a speedy trial because the demand for speedy trial "shall be considered a pleading that the accused is available for trial, has diligently investigated the case, and is prepared or will be prepared for trial within 5 days. A demand filed by an accused who has not diligently investigated the case or who is not timely prepared for trial shall be stricken as invalid on motion of the prosecuting attorney." Florida Rules of Criminal Procedure 3.191 (g).


9. I do not foresee being ready for trial on this case or to have the ability to provide effective assistance of counsel regarding a plea offer for three to four months, depending on how many other cases I am handling and clients I am representing.

Further affiant sayeth naught.



Jay Kolsky
Assistant Public Defender
Office of the Public Defender,
Eleventh Judicial Circuit of Florida

The foregoing instrument was acknowledged before me this 31st day of July 2009, who is personally known to me and who did take an oath.


(Notary Signature)

Aleida A. SAUMELL

(Print or name stamp notary)

NOTARY PUBLIC

State of Florida at Large
NOTARY PUBLIC-STATE OF FLORIDA
ALEIDA SAUMELL
Commission # DD592208
Expires: SEP 27, 2010
BONDED THRU ATLANTIC BONDING CO., INC.