

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

THE STATE OF FLORIDA,

Plaintiff,

v.

ANTOINE BOWENS,

Defendant.

Case No. F09-019364

Division F15

Judge Thornton

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

The State of Florida, by and through the undersigned counsel, files this Appendix to Response to Assistant Public Defender's Motion to Withdraw and Motion to Declare Section 27.503(1)(d), Florida Statutes, Unconstitutional:

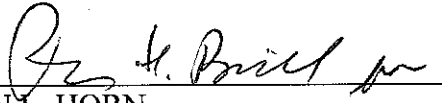
EXHIBITS


1. Notice of Inadequate Resources and Inability to Adequately and Thoroughly Prepare and Provide Diligent Representation filed by Jay Kolsky in *State v. Jacquetta Hodges*, case no. F09-11191.
2. Caseload of Assistant Public Defender Jay Kolsky as of August 28, 2009.
3. Transcript of Proceedings in *State v. Annette Vadi*, case no. F08-42459B, on March 9, 2009.
4. Transcript of Proceedings in *State v. Mario Escoto*, case no. F09-2454, on April 22, 2009.
5. The State Bar of California, *Guidelines in Indigent Defense Services Delivery Systems*, 27 (2006).
6. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, *Keeping Defender Workloads Manageable*, 7 (Jan. 2001).

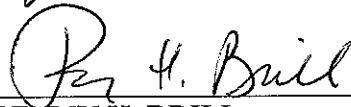
7. MGT of America, *Implementation of Revision 7 to Article V of the Florida Constitution, Phase Two Report*, Recommendation 2.1-3, 2-17 (March 11, 2003).

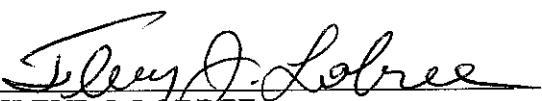
Respectfully submitted,

KATHERINE FERNANDEZ RUNDLE
State Attorney

By: 
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By: 
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Florida Bar No. 305073

By: 
FLEUR J. LOBREE
Assistant State Attorney
Florida Bar No. 947090

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent to Parker D. Thomson, Esquire, Julie E. Nevins, Esquire, and Matthew R. Bray, Esquire, Hogan & Hartson LLP, Attorneys for the Public Defender, 1111 Brickell Avenue, Suite 1900, Miami, FL 33131; Scott D. Makar, Solicitor General, Office of the Attorney General, The Capitol PL-01, Tallahassee, FL 32399-1050; Richard L. Polin, Bureau Chief, Office of the Attorney General, 444 Brickell Avenue, Suite 650, Miami, FL 33131; Chief Judge Joel Brown, Miami-Dade County Courthouse, 73 West Flagler Street, Miami, FL 33130; Administrative Judge Stanford Blake, Richard E. Gerstein Justice Building, 1351 N.W. 12th Street, Miami, FL 33125; The Honorable John Thornton, Richard E. Gerstein Justice Building, 1351 N.W. 12th Street, Miami, FL 33125; Linda Kelly Kearson, General Counsel, Eleventh Judicial Circuit of Florida, Lawson E. Thomas Courthouse Center, 175 N.W. First Avenue, 30th Floor, Miami, FL 33128; Joseph P. George, Jr., Regional Civil and Criminal Conflict Counsel, 1501 N.W. N. River Drive, Miami, FL 33125; Stephen Presnell, General Counsel, Justice Administration Commission, P.O. Box 1654, Tallahassee, FL 32302, and Carlos Martinez, Public Defender and Jay Kolsky, Assistant Public Defender, 1320 N.W. 14th Street, Miami, FL 33125, on this 11th day of September, 2009.

By: 
Penny H. Brill
Assistant State Attorney

EXHIBIT 1

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S.A.O. MAIL ROOM

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

CRIMINAL DIVISION

CASE NO.:

F09011191

SECTION:

F015

JUDGE:

JOHN THORNTON

THE STATE OF FLORIDA,
Plaintiff,

v.

JACQUETTA HODGES,
Defendant.

8-20-09
8-31-09

**NOTICE OF INADEQUATE RESOURCES AND INABILITY TO ADEQUATELY AND
THOROUGHLY PREPARE AND PROVIDE DILIGENT REPRESENTATION**

The Public Defender for the Eleventh Judicial Circuit of Florida ("PD-11"), pursuant to the Florida Rules of Professional Conduct, files this notice of inadequate resources and inability to provide diligent and competent assistance of counsel and as grounds therefor states:

1. Rule 4-1.1 of the Rules of Professional Conduct requires that PD-11 and its attorneys provide competent representation to its clients. "Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation."
2. Rule 4-1.3 of the Rules of Professional Conduct requires that PD-11 and its attorneys act with reasonable diligence and promptness in representing its clients.
3. Rule 4-1.4 of the Rules of Professional Conduct requires that PD-11 and its attorneys keep clients reasonably informed of the status of their cases. This notice is being provided to the above-named client.
4. In June 2008, PD-11 filed certificates of conflict and motions to decline appointments in noncapital felony cases due to an excessive workload. On September 3, 2008, Judge Blake entered an Order making extensive factual findings regarding the dire conditions that PD-11 was facing and granting relief by authorizing PD-11 to decline new appointments in third-degree felony cases. PD-11 has not been afforded the relief authorized because that Order was reversed by the Third District Court of Appeal.
5. Since the filing of PD-11's certificates and motions, conditions at PD-11 have not sufficiently improved to bring PD-11 into compliance with its constitutional, professional and ethical obligations. Due to high caseloads and an insufficient number of attorneys, PD-11 and its felony attorneys are

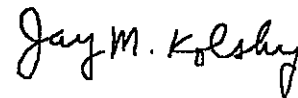
currently unable to timely and effectively investigate cases, meet with clients, locate and interview witnesses, take depositions, and otherwise prepare all of its assigned cases for trial in a timely manner. PD-11 and its felony attorneys must therefore give priority to cases where the client is in custody or is facing charges higher than a third degree felony.

6. I currently represent clients in approximately 164 felony cases.
7. Due to inadequate resources, an excessive workload and competing obligations in other cases, the undersigned will not be able to timely and effectively investigate this case, locate and interview witnesses, take depositions, and otherwise prepare this third-degree felony case in a timely manner, thereby necessitating a continuance request, which would result in a waiver of the client's right to a speedy trial.
8. PD-11 intends this notice to provide its clients with sufficient information to enable them to make informed decisions, including whether they desire the Court to conduct a hearing pursuant to *Nelson v. State*, 274 So. 2d 256 (Fla. 4th DCA 1973), after which alternative counsel may be provided.

I CERTIFY that a copy of this Notice of Hearing has been hand-delivered to the Office of the State Attorney, 1350 NW 12 AVE, Miami FL 33136 , on July 15, 2009.

Respectfully submitted,

Carlos J. Martinez
Public Defender
Eleventh Judicial Circuit of Florida
1320 NW 14th Street
Miami, Florida 33125
305.545.1600



cc: State Attorney's Office
Clerk's Office

By: _____
Jay Kolsky
Assistant Public Defender
Florida Bar No: 0163035