

IN THE
DISTRICT COURT OF APPEAL
FIRST APPELLATE DISTRICT OF FLORIDA

<p>CHARLES ADELSON,</p> <p style="text-align: center;">Appellant,</p> <p>v.</p> <p>STATE OF FLORIDA,</p> <p style="text-align: center;">Appellee.</p>	<p>Case No. 1D24-0004 Direct Criminal Appeal Second Circuit/Leon County L.T. No. 2016-CF-3036</p>
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**REPLY TO THE “STATE’S RESPONSE TO APPELLANT’S
MOTION TO RELINQUISH JURISDICTION TO THE TRIAL
COURT”**

The Appellant, CHARLES ADELSON, by and through undersigned counsel, submits this Reply to the “State’s Response to Appellant’s Motion to Relinquish Jurisdiction to the Trial Court” (hereinafter “Response”). Simply put, it is better to address this issue *now* because the conflict claim was just considered by the trial court (the Honorable Stephen Everett) in Donna Adelson’s case.¹ Otherwise,

¹ Judge Everett also presided over Appellant Adelson’s trial – and it would be better to have Judge Everett to consider this issue now than risk the possibility of a different judge having to consider this issue in the future.

this conflict issue will continue to cloud Appellant Adelson’s case for many months or years to come. Notably, there is *no harm* to the State if the issue is considered now,² and it is certainly in the interests of both justice and judicial economy for the issue to be considered now.

The procedure articulated by the Florida Supreme Court in *State v. Meneses*, 392 So. 2d 905 (Fla. 1981), allows relinquishment in particular cases when it is better that an issue be resolved sooner rather than later. The conflict issue in the instant case clearly fits into this category. As explained in the “Motion to Relinquish Jurisdiction to the Trial Court,” this Court recently followed the procedure set forth in *Meneses* in *Ferguson v. State*, 1D19-3562 (as demonstrated by the Court’s December 30, 2020, order in that case). In *Ferguson*, while Mr. Ferguson’s case was pending on direct appeal, Mr. Ferguson filed a motion to relinquish to the trial court so that the trial court could consider his *Giglio/Brady*³ claim – and this Court granted Mr.

² Stated another way, if the Court relinquishes jurisdiction to the trial court, the State will be permitted to raise *all* of the arguments set forth in its Response – and both parties will get finality on this issue.

³ *Giglio v. United States*, 405 U.S. 150 (1972) & *Brady v. Maryland*, 373 U.S. 83 (1963).

Ferguson’s motion to relinquish. Thereafter, Mr. Ferguson filed a motion in the trial court raising the *Giglio/Brady* claim, and the trial court set the matter for an evidentiary hearing. Following the evidentiary hearing, the trial court granted relief on the *Giglio/Brady* claim (A-3)⁴ – which made the direct appeal moot (because the trial court vacated Mr. Ferguson’s conviction). In its Response, the State asserts that “the issue in *Meneses* was a *Brady* violation” and the State argues that a *Brady* claim is somehow procedurally distinguishable from the conflict issue in the instant case. Response at 4. Contrary to the State’s assertion, the claims raised in *Meneses* and *Ferguson* are procedurally indistinguishable from the claim raised in the instant case – the claims in all three cases concern the denial of fundamental constitutional rights (i.e., the right of due process in *Meneses* and *Ferguson*, and the Sixth Amendment right to conflict-free counsel in the instant case).

In its Response, the State raises several factual assertions, and

⁴ References to the documents included in the appendix to this Reply will be made by the designation “A” followed by the appropriate page number.

then the State makes legal arguments based on these factual assertions. However, these factual assertions and legal arguments are properly considered by the trial court following an evidentiary hearing.

Accordingly, Appellant Adelson requests the Court to temporarily relinquish jurisdiction to the trial court so that the trial court can resolve his conflict of interest claim. It is most efficient to address this issue now – because undersigned counsel have a good faith basis to believe that Appellant Adelson is currently serving a life sentence after being unconstitutionally convicted without the benefit of conflict-free counsel (which is akin to having no counsel at all). Contrary to the State’s assertion in its Response, the conflict issue is certainly *not* “frivolous” – especially in light of Judge Everett’s recent conflict order in Donna Adelson’s case. As explained by the United States Supreme Court in *Brady*, “[s]ociety wins not only when the guilty are convicted *but when criminal trials are fair.*” *Brady*, 373 U.S. at 87 (emphasis added).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing instrument has been furnished to:

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by email delivery this 21st day of October, 2024.

Respectfully submitted,

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