

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

CASE NO.05-2015-CF-039871-AXXX-XX

STATE OF FLORIDA

Plaintiff,

vs.

DANA LYNN LOYD,

Defendant.

FILED IN OFFICE
VIERA BRANCH

2018 JUN 21 A 11:17

SCOTT ELLIS

***MOTION FOR ASSIGNMENT OF POST CONVICTION RELIEF
COUNSEL and ADVISEMENT TO COURT OF CONFLICT.***

COMES NOW, the Defendant/Petitioner, Dana Lynn Loyd, a.k.a. Dana Delaney, Dana Delaney Loyd, pro-se, who respectfully moves this Honorable Court to assign counsel for post conviction relief matters. In support thereof Petitioner avers under penalty of law as follows:

1. The Petitioner is in the process of filing for post conviction relief wherein she will aver in part, ineffective assistance of trial counsel and abuse of judicial discretion by the special conditions imposed by the sentencing Judge Robin Lemonidis that are violating the Petitioners due



process rights to seek redress and access to the courts in violation of the First and Fourteenth Amendments. This nation has long viewed a person's ability to gain access to court as a fundamental element of our democracy. Chief Justice Marshall in *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803), described the ability to obtain civil redress as the "very essence of civil liberty.

2. Petitioner is currently represented by Mr. Michael Bross regarding an alleged violation of her probation. Mr. Bross cannot represent the Petitioner in the post conviction relief proceedings due to the fact that he is the father of her trial attorney. Mr. Michael Bross' services were secured through the financial resources of the Petitioner's parents. The Petitioner has not been employed since her release from jail in December 2017 due to the Special Conditions imposed by the Court and cannot afford post conviction counsel.

Statement of Facts:

3. In August 2015, the Defendant was arrested by the Brevard County Sheriff's Office under the criminal charge of making a false report of child abuse, abandonment or neglect (F.S. 39.205(9)).

4. In March 2017, the Petitioner was convicted during a jury trial.

5. In April 2017, Judge Lemonidis sentenced the Petitioner to two years of community control, the first year being served in the custody of the county jail – followed by three years of probation. In addition, Judge Lemonidis, sentenced the Petitioner to some rather unique and special conditions that violate the Petitioner's right to seek redress and access to the courts. These special conditions prohibit the Petitioner's access to witnesses, and to any related court records necessary to mount an effective post conviction challenge, as the record that the Petitioner cannot access contain the evidence that is needed to support her case.

6. Petitioner aver, that these special sentencing restrictions impede the Petitioner's First Amendment right to seek redress from her government – whether that redress is to mount a pro-se post conviction challenge, or to forward complaints to the Florida Judicial Qualifications Commission and the Florida Bar concerning the actions of counsel and the court.

7. Immediately after her conviction, the Petitioner filed an appeal of her conviction with the 5th DCA through counsel.

8. In December 2017 the 5th DCA issued a PCA decision, effectively affirming the Petitioner's conviction.

9. On December 5, 2017, the Petitioner was released from the Orange

County jail. The Petitioner had to be housed within the Orange County jail, due to a conflict with the Brevard County Sheriff's Office.

10. Since her release from jail, the Petitioner has been advised by her spouse, of information regarding the conduct of her trial that the Petitioner was unaware of during the trial.

11. This information is contained within the trial transcript – which by the Courts special sentencing / probation conditions - Petitioner cannot possess.

Upon further advisement from her spouse, the Petitioner is aware of conversations between the Petitioners defense team and the trial judge to effectively ignore misconduct by attorney Paul Bross, Petitioners trial attorney. These conversations took place during “side bar” meetings – many outside the earshot of the Petitioner, and while the courtroom's white noise machine was activated. These conversations were recorded by the court reporter, and included in the official court transcript.

12. These conversations included but are not limited to the trial judge assuring the defense team that she would “assist” them in “*ward(ing) off*” any ineffective counsel claims by the Petitioner. Further the trial judge opted to handle misconduct by Attorney Paul Bross with “*mom talk*”,

rather than officially addressing or reporting the misconduct.

13. The Petitioner avers that Attorney Paul Bross preferred that the trial judge handle his misconduct with “*mom talk*” over officially reporting his misconduct to the Florida Bar – and that such actions interfered with Bross’ abilities to effectively represent the Plaintiffs interests over his professional interest of avoiding yet another Bar complaint. Attorney Paul Bross has since been disbarred by the Florida Supreme Court, for similar misconduct, in unrelated matters.

14. The Petitioner has also discovered that Mr. Paul Bross a member of her defense team had been arrested. There are indicators that Attorney Paul Bross had an on-going substance abuse problem that interfered with his ability to effectively represent the Petitioner, which caused his disbarment. The Petitioner avers that such substance abuse problems negatively influenced Bross’ ability to provide her an effective defense. Had Petitioner knew of counsels addiction problem she would have immediately fired Paul Bross.

15. In July 2016, nearly a year prior to trial, the Petitioners defense team filed a motion requesting that Judge Robin Lemonidis recuse herself due to a conflict of interest and judicial bias. Judge Lemonidis denied the

motion.

16. On March 26, 2018, a local web magazine published an article that covered the alleged collusion between the defense counsel and Judge Lemonidis. <http://volusiaexposed.com/highprofile/inthedefenseofdanaloyd32018.htm>.

17. On March 29, 2018 – and without any particular explanation, Judge Lemonidis recused herself from the Petitioners case. The Petitioner is currently facing a community control / probation violation connected to an alleged violation of one of the Judge Lemonidis' unique and special sentencing conditions.

18. In April 2018, due to Judge Lemonidis' self-recusal, Circuit Judge Morgan Reinman, was assigned to the Petitioners case.

19. The Petitioner avers that Judge Reinman should also recuse herself from the Petitioners case, due to making prior judicial declarations regarding the Petitioner and the Petitioners alleged victim.

20. In January 2016, Judge Reinman in a related civil case, issued a written declaration regarding the Petitioners alleged victim, stating that the Court had made prior detailed findings that [REDACTED] did not engage in sexual contact with the minor child.

21. The Court memorialized its knowledge that these unfounded

allegations had resurfaced through Dana Delaney, the Petitioner. Petitioner avers that Judge Reinman's documented and preconceived pre-trial bias regarding the Petitioners guilt or innocence instills at the very least, a public perception that Judge Reinman can not be fair and impartial regarding the petitioner.

22. The Petitioner avers that Judge Reinman has a judicial duty to recuse herself from the Petitioners case.

23. The Petitioner has now made this Honorable Court aware of it's conflict of interest – and absent proper action by the Court – has instructed her attorney in the VOP matter to request a judicial recusal.

24. The Petitioner would have provided references to the above described civil case, but cannot do so without subjecting herself to a violation of probation charge, as to possess the necessary documents would be in violation of the special and unique probation conditions.

25. Due to several reasons, to include lack of financial resources, the Petitioner has explored her right of representing herself pro-se in any future post conviction matters. However, due to the petitioner's probationary status, and in particular, the special conditions set by the trial court the Petitioner does not have legal access to the records or to the individual

(witnesses) she would need to prosecute such post conviction actions.

WHEREFORE the Petitioner respectfully requests that the Court grant her motion for the appointment of counsel through the public defender's office regarding any post conviction actions. The Petitioner further requests that an evidentiary hearing be set on this motion in the interest of justice.

Respectfully Presented this 21st day of June 2018.

Dana Lynn Loyd, pro-se
1294 Estridge Drive
Rockledge, FL 32955-2312

Certificate of Service

I, Dana Lynn Loyd, hereby Certify, that a true and correct copy of the foregoing was furnished by Certified Registered U.S. Mail to the office of The State Attorney located at 2825 Judge Fran Jamieson Way, Melbourne, Florida 32940, this 21st day of June 2018.

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