

IN THE DISTRICT COURT OF APPEAL
SIXTH DISTRICT OF FLORIDA

STATE OF FLORIDA,
RICHARD WALSH

HONERABLE JUDGE MADRIGAL III
Respondents.

v.

Case # 202165408

KELLI LYNCH,
Petitioner

EMERGENCY MOTION FOR STAY PENDING APPEAL

Pursuant to Florida Rule of Appellate Procedure 9.310, Petitioner Kelli Lynch respectfully moves this Honorable Court for a stay of all proceedings in the lower court pending the resolution of her appeal.

I. INTRODUCTION

This Motion is based on the grounds that Petitioner cannot receive a fair and impartial hearing in the lower court due to the demonstrated bias of the presiding judge, the prosecutorial misconduct of the State Attorney, and the ineffective assistance of counsel. The totality of these circumstances has created an environment where Petitioner's fundamental right to due process has been irreparably compromised.

II. ARGUMENT

A. Irreparable Harm

Petitioner will suffer irreparable harm if a stay is not granted. Without a stay, she will be forced to proceed in a lower court where the judge has demonstrated clear bias and prejudice against her. The judge's comments, such as laughing about the prospect of Petitioner's incarceration and making disparaging remarks about her support system, indicate a lack of impartiality that cannot be remedied by any other means than a stay of proceedings.

Furthermore, the State Attorney's misconduct, including the suppression of exculpatory evidence and the potential for refileing charges based on an unlawful arrest, further jeopardizes Petitioner's right to a fair trial. Proceeding without a stay would subject Petitioner to continued prosecutorial misconduct and a tainted legal process.

Additionally, Petitioner is currently facing a bond revocation hearing on a new charge of trespassing, despite evidence that the arrest was unlawful. The owner of the vehicle in question had given Ms. Lynch permission to use it, as evidenced by a valid rental agreement. This agreement was provided to Petitioner's previous attorney, who neglected to inform the court of this exculpatory evidence. Petitioner's current attorney has also declined to address this issue, leaving her without competent counsel to defend her interests in this critical matter. If a stay is not granted, Petitioner faces the imminent threat of incarceration based on a potentially unlawful arrest, further compounding the irreparable harm she has already suffered. The lower court's demonstrated bias and refusal to appoint new counsel necessitate a stay of proceedings until the appellate court can ensure Petitioner's adequate representation.

B. Likelihood of Success on the Merits

Petitioner asserts a high probability of success on the merits of her appeal, as the Emergency Petition for Writ of Mandamus or Prohibition meticulously details numerous instances of judicial and prosecutorial misconduct, including:

1. Unauthorized ex parte communications between the judge and the State Attorney.
2. Judicial bias and disparagement of Petitioner and her associate.
3. Suppression of exculpatory evidence by the State Attorney.
4. Misattribution of evidence.
5. Ineffective assistance of counsel.

It is important to note that the majority of the evidence supporting these allegations is readily available in the court record itself, as these proceedings were recorded while the court was in session. The appellate court can easily verify the veracity of the Petitioner's claims through a review of the transcripts and other court documents. Thus, from the Petitioner's perspective, a prompt resolution of this matter is anticipated.

These violations of Petitioner's due process rights and the principles of fair trial are substantial and raise serious questions about the validity of the lower court's proceedings. The likelihood of success on appeal is high, given the gravity of these errors.

C. No Harm to the Public Interest

Granting a stay will not harm the public interest. In fact, it would serve the public interest by ensuring that justice is done and that the integrity of the judicial process is upheld. A stay would prevent further harm to Petitioner's rights and allow the appellate court to fully consider the merits of her appeal. The public's interest in this matter is already heightened due to the egregious nature of the alleged misconduct. Further violations of the Petitioner's rights, particularly through an unjust bond revocation, would only escalate public scrutiny and further erode public trust in the court system. Allowing the lower court to proceed in the face of these allegations would signal a disregard for due process and fairness, potentially causing irreparable damage to the reputation of the judiciary.

III. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Honorable Court grant her Motion for Stay Pending Appeal. The stay is necessary to protect Petitioner's due process rights, prevent irreparable harm, and ensure the integrity of the judicial process.

Respectfully submitted,

KELLI
8184 SPEARFISH AVE,
FL, 32822
KELLILYNCH5@GMAIL.COM

LYNCH
ORLANDO
(321) 666-1730

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion has been furnished via electronic mail, to Honorable Judge Diego Madrigal III, 12orange@ninthcircuit.org; State Attorney Richard Walsh, division12@sao9.org; Allen Holland, allenholland@bellsouth.net, on this 9th day of July, 2024.

KELLI
8184 SPEARFISH AVE,
FL, 32822
KELLILYNCH5@GMAIL.COM

LYNCH
ORLANDO
(321) 666-1730