

SEP 24 2012

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

PEOPLE OF STATE OF CALIFORNIA,

Plaintiff,

v.

KELLY SOO PARK,

Defendant.

Case No.: BA361202

**PEOPLE'S SUPPLEMENTAL
APPLICATION FOR A COURT
INQUIRY REGARDING POSSIBLE
CONFLICT OF INTEREST AND
APPOINTMENT OF SEPARATE
ADVISORY COUNSEL**

Date: October 2, 2012

Time: 8:30 a.m.

Dept.: 109

**TO THE HONORABLE JUDGE KATHLEEN KENNEDY; DEFENDANT
KELLY SOO PARK AND HER ATTORNEYS, MARK KASSABIAN AND
GEORGE BUEHLER:**

PLEASE TAKE NOTICE that on October 2, 2012 at 08:30 AM, in Department
109 or as soon thereafter as the matter may be heard, counsel for the People will
PETITION THIS COURT to conduct an inquiry into a possible conflict of interest by
Defendant Park's attorneys of record. Special steps must be taken to ensure that the

1 defendant is aware of a possible conflict.

2 Dated this 24th day of September, 2012

Respectfully submitted,

3 STEVE COOLEY

4 District Attorney of Los Angeles County

5 By 

6 ERIC HARMON

7 Deputy District Attorney

8 By: 

9 STACY OKUN-WIESE

10 Deputy District Attorney

I.

SUMMARY

As the People have previously alleged and proven, there is reason again to believe that the defendant's representation in this matter is funded, at least in part, by her former employer (and possible suspect) Dr. Munir Uwaydah. Similar to the issue litigated in 2011, the People once more believe that the defendant's attorneys are being paid for by Dr. Uwaydah and/or his business entities. The People therefore request the court inquire of the defendant and her attorneys regarding the potential conflict of interest that exists as a result of the defense attorneys' payment and thereafter, consider appointing the defendant separate counsel to advise her on the issue.

The People are still investigating the identities and roles of other suspects involved in the murder of Juliana Redding. Among those are Dr. Uwaydah and his possible involvement in the murder Ms. Redding. Given these possibilities and the potential for competing interests between the defendant and Dr. Uwaydah, any financial arrangements for legal representation on behalf of the defendant made by Dr. Uwaydah (either personally or through one of his companies) raises genuine concerns about protecting the defendant's rights.

Similar to our lack of any position on this issue in 2011, the People once again take no position on the outcome of this issue. The defendant has a clear and crucial right to choose her own representation and to have an uninterrupted and confidential relationship with said representation. However, special steps must be taken to ensure that the defendant is aware of any potential conflict that could affect her rights. Specifically, the

1 People are not moving to disqualify counsel at this time, but rather are merely requesting
2 that the Court: (1) conduct its own independent inquiry into a possible conflict; (2) make
3 the defendant aware of any possible conflict; and (3) take appropriate steps to appoint
4 advisory counsel and obtain a written waiver by the defendant, if necessary. The Court
5 should act to protect the defendant's constitutional rights and to prevent any appellate
6 issues from compromising a jury's verdict in the future.
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8 II.

9 **FACTUAL BACKGROUND**

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12 On March 15, 2008, Juliana Redding was beaten and strangled to death inside her
13 apartment located at 1527 Centinela Avenue, in the City of Santa Monica. The
14 defendant, Kelly Soo Park, used her bare hands to kill Redding as Redding fought for her
15 life. The defendant attempted to clean the crime scene and thus destroy evidence.
16 However, Defendant Park's DNA remained on Ms. Redding's body, clothes, and other
17 items inside of the apartment.
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20 Ms. Redding and the defendant did not know each other, although they did share
21 one common acquaintance, Dr. Munir Uwaydah. The defendant worked for Dr.
22 Uwaydah in several capacities, including as an assistant to him at **Frontline Medical**
23 **Associates, Inc., and Golden State Pharmaceuticals.** One of Dr. Uwaydah's proposed
24 business enterprises involved hiring the victim's father, pharmacist Greg Redding. Dr.
25 Uwaydah planned to manufacture a series of compounded "pain creams" and wanted to
26 sell these creams out of his pharmacy, Golden State Pharmaceuticals. That pharmacy
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1 was going to be managed by Mr. Redding. In the months before his daughter was
2 murdered, Mr. Redding became suspicious of Dr. Uwaydah's plan to manufacture the
3 pain creams and believed that Dr. Uwaydah was not being truthful about the terms of
4 their deal. As the deadline for the deal approached, at the advice of his attorneys, Mr.
5 Redding backed out of the proposed deal and notified Dr. Uwaydah's attorneys by way of
6 a letter dated March 10, 2008.
7

8 Five days later, Mr. Redding's daughter was strangled to death by an unacquainted
9 defendant who just happened to be an employee of Dr. Uwaydah. DNA evidence was
10 recovered from Ms. Redding's neck, the tank top she was wearing, the cell phone with
11 which Ms. Redding was attempting to call 9-1-1, and from a gas stove knob that was
12 intentionally turned on to emit gas and blow up the apartment. The DNA evidence
13 recovered from Ms. Redding and her apartment is a match to the defendant.
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15 Two years later, on June 17, 2010, the defendant was contacted by detectives from
16 the Santa Monica Police Department seeking to obtain her fingerprints. After being
17 arrested, the defendant made a frantic phone call to Dr. Uwaydah. The call was captured
18 on a court-authorized wire-tap. In that intercepted phone call, the defendant advised Dr.
19 Uwaydah that detectives from the Santa Monica Police Department contacted her about a
20 murder and requested her fingerprints. The defendant was released, but later arrested for
21 the murder of Ms. Redding. Within 48 hours of learning that of the defendant was
22 arrested for the murder of Juliana Redding, Dr. Uwaydah fled the country and is currently
23 in Lebanon.
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1 As this court may recall from a previous hearing, Santa Monica Police Detective
2 Karen Thompson informed the People that on or about July 2, 2010, Dr. Uwaydah's
3 company, Frontline Medical Associates paid \$100,000.00 to the defendant's then-
4 attorneys by a cashier's check drawn from Wilshire State Bank. Prior defense counsel
5 withdrew from the case citing a conflict after that information was disclosed to this
6 court.¹

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8 **Similarly, and relevant to Defendant Park's current legal representation,**
9 **according to Detective Thompson, on April 17, 2012 and May 30, 2012, two checks**
10 **totaling \$150,000.00 were paid to the defendant's current attorneys by "Ventura**
11 **Collection and Management, LLC." That company is a fictitious business entity**
12 **operating as Frontline Medical Associates and Golden State Pharmaceuticals. The**
13 **People believe that this gives rise to an inference of Dr. Uwaydah's continued financial**
14 **arrangements for the legal representation of Defendant Park by her current attorneys.**
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22 ¹ While in county jail, the defendant had a series of phone conversations with her sister,
23 Kim Park. On several occasions, the two discussed Dr. Uwaydah paying for the lawyers who
24 represented the defendant at that time. For example, on June 22nd and 26th, 2010, the defendant
25 spoke with Kim regarding the issue of Dr. Uwaydah paying for the defendant's legal
26 representation. (Those conversations are partially transcribed and included in the People's
27 motion regarding a potential conflict of the defendant's attorney filed in 2011.) On June 27,
28 2010, the defendant told her sister over the phone, approximately sixteen minutes into the call:
"You know, I told Ronnie to, um, you know, I don't know why Munir is having a problem,
but—about the, the retainer but he needs to figure that out." Defendant Park tells her sister: "But
also, you need to call Munir and see if he can help with that, ASAP." (Eighteen minutes into the
conversation.)

III.

**THIRD PARTY PAYMENT OF ATTORNEY'S FEES CONSTITUTES A
POTENTIAL CONFLICT OF INTEREST EVEN AT THE PRETRIAL STAGE**

Both California and Federal law are clear on the issue of a defendant's right to choose their preferred counsel. However, if the chosen representation has a conflict of interest, including third party payment, then special steps must be taken to ensure that the defendant is aware of that conflict.

California Rule of Professional Conduct 3-310(f) lays out the appropriate safeguards for third party payment:

(F) A member shall not accept compensation for representing a client from one other than the client **unless**:

(1) There is no interference with the member's independence of professional judgment or with the client-lawyer relationship; **and**

(2) Information relating to representation of the client is protected as required by Business and Professions Code section 6068, subdivision (e); **and**

(3) The member obtains the client's informed written consent, provided that no disclosure or consent is required if:

(a) such nondisclosure is otherwise authorized by law; or

(b) the member is rendering legal services on behalf of any public agency which provides legal services to other public agencies or the public.

In this situation, the People are concerned yet again that payment by Dr. Uwaydah through his company may affect counsel's representation by discouraging the defendant from offering information that might implicate Dr. Uwaydah in the murder of Ms. Redding.

1 In Wood v. Georgia, the seminal case on this issue, the Supreme Court of the United
2 States highlighted the “inherent dangers that arise when a criminal defendant is represented
3 by a lawyer hired and paid by a third party, *particularly when the third party is the*
4 *operator of the alleged criminal enterprise.*” (Wood v. Georgia (1981) 450 U.S. 261.)
5 (emphasis added.) The defendants in Wood were employees convicted of distributing
6 obscene materials whose employer paid their legal fees but failed to pay their probation
7 fines, resulting in revocation. The Court was concerned that counsel compensated by a
8 criminal co-conspirator might “prevent his client from obtaining leniency by preventing
9 the client from offering testimony against his former employer or from taking other
10 actions contrary to the employer's interest.” (Id. 268-70.) *See also United States v. Allen*
11 (9th Cir. 1987) 831 F.2d 1487 (holding that an “actual conflict of interest” was created
12 where unindicted smuggling bosses paid for the legal representation of seventeen
13 defendants, although no actual ineffective assistance of counsel occurred).

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18 The connection between Dr. Uwaydah and the defendant’s case is clear. Evidence
19 shows that Dr. Uwaydah entered into a business relationship with Ms. Redding’s father. On
20 March 10, 2008, Mr. Redding withdrew from the agreement. Five days later, the defendant
21 strangled Mr. Redding’s daughter, a total stranger, to death. The defendant may possess
22 incriminating or damaging information about Dr. Uwaydah. Sharing that information
23 may benefit the defendant, but would be against Dr. Uwaydah’s interests. Conflicts of
24 this type present real risks of procedural due process violations and reversals on appeal.
25 The Wood Court considered the apparent risk of a defendants’ due process rights being
26 violated so significant that it remanded the case to have the trial court determine whether
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1 a conflict of interest existed.

2 The dangers created by a conflict of interest are present in pretrial plea
3 negotiations as well as at trial. (Quintero v. United States (9th Cir. 1994) 33 F.3d 1133,
4 1135.) In Quintero, the petitioner was convicted of possession of cocaine with intent to
5 distribute (and conspiracy to do the same). Quintero claimed his retained counsel was
6 paid by an unknown third party and had advised him to reject a plea agreement offered by
7 the government. The court found the trial court in error for refusing to hold a hearing to
8 determine whether the conflict existed when counsel gave this advice.
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11 Therefore, the People bring the potential for a conflict of interest to the court's
12 attention to fulfill the government's responsibility in ensuring that the defendant's
13 procedural rights are protected and to prevent possible future appellate issues. The
14 California Supreme Court held in People v. Harris, that it is appropriate for the
15 prosecution to draw the court's attention to conflict issues in pretrial proceedings. (People
16 v. Harris (2005) 37 Cal.4th 310, 342.) In light of the People's concern regarding the
17 possibility of a post-conviction challenge by the defendant, the court found that it was
18 proper for the prosecution to request a determination of the conflict before trial. (Id.)
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22 IV.

23 24 **DISQUALIFICATION IS NOT REQUIRED BECAUSE A PERSONAL WAIVER 25 OR OTHER AMELIORATIVE EFFORTS MAY BE SUFFICIENT**

26 This motion is submitted to alert the court to a potential issue and not to
27 suggest any particular course of action. The People are not moving to disqualify
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1 counsel at this time, but rather want to ensure that the defendant is aware of the
2 possible conflict and that appropriate steps are taken to conduct a sufficient
3 inquiry and obtain a waiver to prevent appellate issues in the future.

4
5 Even if a conflict or potential conflict exists, the defendant can choose to
6 waive her right to conflict-free representation. As long as the dangers are
7 explained to the defendant and she makes a knowing and intelligent waiver, the
8 possibility that a conflict exists is not sufficient to justify disqualification of
9 counsel. (Maxwell v. Superior Court (1982) 30 C.3d 606.) The court retains the
10 right to remove counsel at a later time should his or her representation become
11 obviously ineffective. (Id. at footnote 10.) In Alcocer v. Superior Court, wherein a
12 conflict was created by joint representation, the court emphasized that a minimum
13 inquiry should include assurances that (1) the defendant has discussed the
14 “drawbacks” of the conflict with counsel or appointed counsel; (2) the defendant
15 has been advised of the dangers of the conflict; (3) that he knows he has the right
16 to conflict-free representation; and (4) he is waiving the right voluntarily. (Alcocer
17 v. Superior Court (1988) 206 Cal.App.3d 951, 961.) Although this is not a case of
18 joint representation conflict, these guidelines (originally laid out in People v.
19 Mroczo (1983) 35 Cal.3d 86) are one method of providing basic protection for the
20 defendant’s procedural rights.
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23 In addition, the court may appoint independent counsel to advise the
24 defendant regarding the conflict. The court is required to do so if the defendant
25 requests such counsel, but need not provide this option sua sponte. (People v.
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1 Carpenter (1997) 15 C.4th 312.) In People v. Ramirez, the defendant and his
2 family entered into a retainer agreement with counsel that was later challenged as
3 creating a financial conflict. (People v. Ramirez (2006) 39 C.4th 398.) The
4 Supreme Court of California found the trial court's efforts to advise the defendant
5 of a possible conflict sufficient where the court (1) engaged in "an extensive and
6 appropriate inquiry into defendant's awareness of the possibility of a conflict of
7 interest;" (2) appointed separate counsel to advise the defendant (who refused to
8 see said counsel); and (3) was assured by defense counsel that no financial conflict
9 was present or would likely develop. (Id. at 428.) The trial court was not found in
10 error for refusing to review the terms of the retainer agreement.
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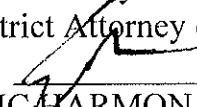
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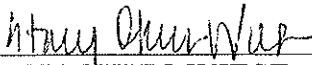
16 **CONCLUSION**

17 Therefore, the People respectfully request that this court inquire into the possible
18 conflict of interest. Defendant Park has a right to conflict-free counsel and the counsel of
19 her choice, but her waiver must be knowing and intelligent to guarantee a fair trial.
20

21 Dated this 24th day of September, 2012

Respectfully submitted,

23 Steve Cooley
24 District Attorney of Los Angeles County
25 By 
26 ERIC HARMON
Deputy District Attorney

27 By 
28 STACY OKUN-WIESE
Deputy District Attorney

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I am over eighteen years of age, not a party to the within cause and employed in the Office of the District Attorney of Los Angeles County with offices at 210 W TEMPLE ST 17-1140 LOS ANGELES, CA 90012. On the date of execution hereof I served the attached document **PEOPLE'S SUPPLEMENTAL APPLICATION FOR A COURT INQUIRY REGARDING POSSIBLE CONFLICT OF INTEREST AND APPOINTMENT OF SEPARATE ADVISORY COUNSEL**, by depositing a true copy thereof, enclosed in a sealed envelope in the United States mail in the County of Los Angeles, California, addressed as follows:

Executed on this 24th day of September, 2012 at LOS ANGELES, California.

Rev. BB030-3/09 DA Case 30748683