

SUPREME COURT OF FLORIDA

DONALD JAMES SMITH,

Appellant,

CASE NO.: SC18-0822

v.

STATE OF FLORIDA,

Appellee.

_____ /

UNOPPOSED MOTION TO WITHDRAW

1. Undersigned counsel was appointed as a private attorney from the limited registry in the Fourth Judicial Circuit to represent Appellant in this matter.
2. Since that time, undersigned counsel has conferred with Appellant and filed an initial brief on Appellant's behalf.
3. The Appellee's answer brief has not been filed on the date of filing this motion.
4. On August 5, 2019, undersigned counsel was notified that beginning September 3, 2019, he has been appointed as Assistant Counsel for the Disciplinary Review Board of the Supreme Court of New Jersey.
5. The Disciplinary Review Board of the Supreme Court of New Jersey (Board) serves as the intermediate appellate level of the attorney disciplinary system in this state. The Board reviews all recommendations for discipline from the districts and from special masters. The Board's decisions as to discipline are final in all cases,

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subject to the New Jersey Supreme Court's confirming order, except those decisions recommending disbarment.

6. In this position, undersigned counsel will be a full-time employee of the New Jersey Judiciary.

7. As a full-time employee of the New Jersey Judiciary there are strict limitations on outside employment.

8. The applicable portion of the Rules Governing the Courts of the State of New Jersey Rule 1:20-15, Disciplinary Review Board, provides the following limitation on employment: "Neither counsel, assistant counsel nor staff shall be permitted to otherwise engage in the practice of law nor to be otherwise employed[.]"

9. Additionally, under Code of Conduct Requirement for Judiciary Employees, Canon 5, Outside Employment and Other Activities, provides that the outside practice of law is prohibited.

10. As a result of these limitations, undersigned counsel is beginning the process of dissolving his private practice.

11. Under Florida Rule of Professional Conduct 4-1.16(b)(5), withdrawal from the representation of a client is allowed if "good cause for withdrawal exists."

12. Additionally, under Rule 4-1.16(b)(4), withdrawal from the representation of a client is allowed if, "withdrawal can be accomplished without material adverse effect on the interests of the client[.]"

13. Based on the foregoing limitations, the appointment as Assistant Counsel, and the fact withdrawal can be accomplished without material adverse effect on the interests of the client, undersigned counsel respectfully requests this Court grant undersigned counsel's motion to withdrawal.

14. Undersigned counsel has conferred with opposing counsel who has no objection to this motion. However, opposing counsel notified the undersigned of her intention to file a motion to toll pending determination of this motion and relinquishment for the appointment of new appellate counsel.

WHEREFORE, undersigned counsel respectfully requests this Court grant his motion to withdraw based on the reasons outlined above.

Respectfully submitted,

/s/Rocco J. Carbone, III

ROCCO J. CARBONE, III

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COUNSEL FOR APPELLANT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished, via electronic mail, on this 6 day of August 2019 to Assistant Attorney General Charmaine Millsaps at charmaine.millsaps@myfloridalegal.com and via U.S. Mail to Appellant, Donald James Smith.

Respectfully submitted,

/s/Rocco J. Carbone, III

ROCCO J. CARBONE, III