

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

CASE NO. 2019-CA-6512-O
Panel K

MARKEITH LOYD,
Petitioner,

vs.

RICHARD L. SCOTT, as former
Governor of the State of Florida, and
RON DESANTIS, as Governor of
the State of Florida,
Respondent.

_____ /

ORDER DENYING
PETITION FOR WRIT OF QUO WARRANTO

This matter came before the Court for consideration of the Petition for Writ of Quo Warranto, filed May 14, 2019. After reviewing the Petition together with Governor DeSantis' Response to Order to Show Cause and Motion to Dismiss, filed June 25, 2019, the Court finds as follows.

Petitioner moved for an Order directing Respondents to show by what authority they replaced and continue to authorize the replacement of State Attorney Aramis Ayala with State Attorney Brad King in Petitioner's prosecution. He acknowledges the Florida Supreme Court has ruled in *Ayala v. Scott*, 224 So. 3d 755, 758 (Fla. 2017), that "the reassignments are predicated upon 'good and sufficient reason,' namely, Ayala's blanket refusal to pursue the death penalty in any case despite Florida law establishing the death penalty as an appropriate sentence under certain circumstances," but argues that State Attorney Ayala had first independently analyzed all of the circumstances surrounding the

cases and reached the separate conclusion not to pursue the death penalty before she determined that there would be a blanket policy with respect to other homicide cases then pending in the Ninth Judicial Circuit. Petitioner asserts:

1. The Florida Constitution vests State Attorneys with complete discretion in deciding whether and how to prosecute a case, including the determination of whether or not to seek the death penalty.
2. Governor Scott's actions violated Mr. Loyd's right to due process and equal protection under the provisions of the Florida Constitution and violated the Due Process provisions, equal protection provisions and the Fifth, Sixth, Eighth, and Fourteenth Amendments of the U.S. Constitution.

Therefore, Petitioner asks this Court to nullify the Respondent's orders, direct that State Attorney Ayala is the prosecutor on his cases, and strike the Notice of Intent to Seek the Death Penalty filed by State Attorney Brad King.

Respondents argue Petitioner cannot establish that Governor Scott exceeded his authority by reassigning the homicide cases or that Governor DeSantis is exceeding his authority by permitting the assignment to continue, and assert that reassignment did not violate the Constitutions of Florida or the United States

Quo warranto is the proper vehicle for the State Attorney to challenge Respondents' executive orders reassigning the prosecution of pending death penalty cases to another State Attorney. *Ayala v. Scott*, 224 So. 3d at 757. However, the Florida Supreme Court clearly held that Governor Scott did not exceed his statutory authority in doing so. *Id.* This Court concludes it is bound by the controlling authority set forth in that opinion, which held that the reassignment of Ninth Judicial Circuit cases, including those of Petitioner, fell "well within the bounds of the Governor's broad authority." *Id.* at 758. The fact that State Attorney Ayala elected not to pursue the death penalty in Petitioner's case before publicly

announcing her blanket policy not to seek the death penalty in any Ninth Judicial Circuit case does not change this conclusion.

Therefore, it is ORDERED AND ADJUDGED that the Petition for Writ of Quo Warranto is hereby DENIED.

DONE AND ORDERED in Chambers in Orlando, Orange County, Florida, this _____ day of July 2019.

RENEE A. ROCHE
Presiding Circuit Judge

PATRICIA L. STROWBRIDGE, and DENISE KIM BEAMER, J.J., concur

Certificate of Service

I certify that a copy of the foregoing Order has been provided this _____ day of July 2019 via E-Service to Terence Lenamon, Esquire, Terry@Lenamonlaw.com, and Teodoro Marrero Jr., Esquire, tmarrero@mrlawfl.com, and Colleen Ernst, Deputy General Counsel, Executive Office of the Governor, Colleen.Ernst@eog.myflorida.com.

Judicial Assistant