

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

STATE OF FLORIDA,)	CASE NO.: 18-1958CF10A
)	
Plaintiff,)	
)	JUDGE: SCHERER
v.)	
)	
NIKOLAS CRUZ,)	
)	
Defendants.)	

**ORDER ON DEFENDANT'S MOTION FOR COURT REVIEW OF CLERK'S
DETERMINATION OF NON-INDIGENCY**

THIS CAUSE comes before the Court upon Defendant's Motion for Court Review of Clerk's Determination of Non-Indigency. Having considered the Defendant's instant motion, arguments of the respective parties, all documents presented to the Court related to Defendant's current financial resources, the applicable law, and being otherwise fully advised in the premises, the Court finds as follows:

Defendant filed an 'Application for Criminal Indigent Status' on April 9, 2018. On April 11, 2018, the Court held a hearing with regard to Defendant's current financial status. Anticipating a finding by the Clerk of the Court that he would be found non-indigent, and expecting that a review of the clerk's determination would become necessary, Defendant presented arguments to the Court at the April 11, 2018, hearing.

On April 12, 2018, the Clerk of the Court determined that based upon the information contained in his application, Defendant is *not indigent*. Defendant now seeks the Court's review of the Clerk's determination, pursuant to Section 27.52(4), Florida Statute.

Pursuant to Section 27.52(4), 'Determination of indigent status; Review of clerk's determination,':

(a) If the clerk of the court determines that the applicant is not indigent, and the applicant seeks review of the clerk's determination, the court shall make a final determination of indigent status by reviewing the information provided in the application against the criteria prescribed in subsection (2) and by considering the following additional factors:

1. Whether the applicant has been released on bail in an amount of \$5,000 or more.
2. Whether a bond has been posted, the type of bond, and who paid the bond.
3. Whether paying for private counsel in an amount that exceeds the limitations in s. 27.5304, or other due process services creates a substantial hardship for the applicant or the applicant's family.
4. Any other relevant financial circumstances of the applicant or the applicant's family.

A summary review of the information contained in the application indicates that Defendant currently has access to approximately \$700 in cash (held in his Broward Sheriff's Office commissary account), \$353 in a bank account, and \$2200 in Microsoft stock. Defendant has entitlement to a \$25,000 life insurance policy from a deceased parent, though he currently cannot access that money, being held in jail without bond. Defendant may at some point become a potential beneficiary to the estate of his deceased mother, although the administration of the estate is still pending. Whether or not Defendant will ultimately receive any monies from his mother's estate is unknown.

According to the information contained in Defendant's indigency application, his *current* net worth is approximately \$28,000. Other than the resources listed above, Defendant has no additional sources of income. In reviewing the clerk's determination of non-indigency, the court must consider Section 27.52(4), Florida Statute.

Section 27.52(4)(a)1 and 2, Florida Statute, relating to bail/bond are not applicable, as Defendant is held without bond. Section 27.52(4)(a)3, Florida Statute, directs the reviewing court to consider whether paying for private counsel *in an amount that exceeds* the limitations set forth in section 27.5304 would create a substantial hardship for the applicant. In reviewing the Clerk's determination of indigency, a court is

explicitly directed to take into consideration the type of case, since the fee limitations set forth are differentiated by type. In the instant case, Defendant is charged with *seventeen* separate capital offenses. Pursuant to Section 27.5304(5):

The compensation for representation in a criminal proceeding shall not exceed the following:

(d) For capital cases represented at the trial level: \$25,000. For purposes of this paragraph, a "capital case" is any offense for which the potential sentence is death and the state has not waived seeking the death penalty.

The Defendant's current net worth is approximately \$28,000, only part of which he can access. Since he presently has no other sources of income, paying private counsel "in an amount that exceeds the \$25,000, limitation set forth in Section 27.5304," would create a substantial hardship. In the instant case, the cost of private representation would certainly far exceed \$25,000, as Defendant is charged with *seventeen separate counts* of First Degree Murder, and is facing the death penalty on each of the seventeen counts. Defendant is charged with *an additional seventeen separate counts* of Attempted First Degree Murder, each punishable by up to LIFE in prison. The indictment names thirty four separate victims. In consideration of the specific facts of this case, the Court finds that this is not a typical felony case, nor even a typical capital felony case. Additionally, no external sources of financial assistance have been presented nor are expected, as far as "other relevant circumstances" are concerned under Section 27.52(4)(a)4, Florida Statute.

Based on Defendant's current financial status, the additional factors considered under Section 27.52(4)(a)1-4, Florida Statute, and the exceptional nature of this case, the Court finds that Defendant *is indigent*. The Office of the Public Defender shall remain on this case and continue its representation of Defendant.

The Court will revisit the issue of indigency in the event that there is a change in circumstances, and Defendant is in receipt of a sum of money (from his mother's estate or otherwise), which would afford him the ability to retain private counsel. Accordingly,

It is **ORDERED AND ADJUDGED** that this Court declares Defendant **INDIGENT** for purposes of this case. The Office of the Public Defender shall continue its representation of Defendant.

DONE AND ORDERED on this 23rd day of April, 2018, in Chambers, Fort Lauderdale, Broward County, Florida.


ELIZABETH SCHERER
CIRCUIT JUDGE

Copies furnished to.

Office of the Public Defender

Office of the State Attorney