

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA

Case No. 1:04-CR-165

Plaintiff,

v.

Honorable Robert Holmes Bell
Chief United States District Judge

DAVID ALBRECHT,

Defendant.

**MOTION FOR LEAVE TO WITHDRAW AS COUNSEL
AND MEMORANDUM OF LAW IN SUPPORT**

The undersigned, appointed counsel for Defendant David Albrecht, moves pursuant to Federal Rule of Criminal Procedure 44 for leave to withdraw as counsel for Mr. Albrecht for the reason that this Office has an apparent potential conflict of interest in representing Mr. Albrecht due to the appointment of Ray Kent as Federal Public Defender for the Western District of Michigan. Mr. Kent previously was appointed to act as stand-by counsel for Defendant Janet Mavis Marcusse and was granted leave by the Court to withdraw for that reason by Order entered December 17, 2004.

Memorandum of Law

The office of the Federal Public Defender was appointed to represent Defendant David Albrecht. Ray Kent was appointed to act as stand-by counsel for Defendant Janet Mavis Marcusse. Subsequent to these appointments, Mr. Kent was selected as the Federal Public Defender for the Western District of Michigan and will be assuming that position in the near future.

Pursuant to Federal Rule of Criminal Procedure 44, a potential conflict of interest exists, or will exist, due to two co-defendants being represented by counsel who are associated in law practice. In order to protect Mr. Albrecht's right to counsel guaranteed by the Sixth Amendment, new counsel should be appointed to represent Mr. Albrecht. In order to avoid any possible appearance of impropriety, new counsel should be appointed directly by the Court without input from the Office of the Federal Public Defender.

WHEREFORE, the undersigned respectfully requests this Honorable Court for leave to withdraw as counsel for Defendant David Albrecht and that the Court appoint new counsel.

Respectfully submitted,

/s/ Paul L. Nelson

PAUL L. NELSON
Acting Federal Public Defender

Dated: January 31, 2005