



BROWARD ASSOCIATION OF CRIMINAL DEFENSE LAWYERS, INC.

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November 4, 2022

The Honorable Chief Jack Tuter

I, along with numerous past presidents of the Broward Association of Criminal Defense Lawyers (BACDL), write to express the concern of our organization and the many members who have voiced concerns regarding Judge Scherer's handling of the Cruz sentencing. It is not lost on us the profound impact this case has had on our community and country. Society suffers though when we succeed in stifling and even dismissing the lawyers whose job it is to advocate in our criminal justice system.

We are all guided by the wisdom of Florida's jury instructions, which directs the jurors to remember that the lawyers are not on trial. That principal remains throughout sentencing. Defense attorneys are an integral part of the judicial system – just like prosecutors and judges. Allowing ad hominem attacks on any of the court personnel is a dangerous precedent that creates a chilling effect on the judicial process.

We have extreme sympathy for the victims, their families, and the atrocity they suffered. In no way are writing this as an attack on the victims and their families. This letter is directed towards the actions of the judge and her lack of decorum in the courtroom. The personal attacks on the lawyers at the sentencing hearing undermines the purpose of the criminal justice system.

When a judge interjects themselves into the proceedings, favoring one side, becoming animated, and starts ordering lawyers to remain silent or even leave counsel table, decorum is lost.

The world watched as this happened this week in our own county. Judge Scherer's conduct failed to properly consider the safety and wellbeing of the court personnel that was being singled out during a

sentencing hearing. The lawyers were not on trial, and their actions and advocacy should not have been the subject of any statement regarding punishment or guilt. When the judge failed to mandate this, it allowed what the world saw – attacks on defense counsel. Respect for our system of justice includes respect for the role of the participants in the process. The court appoints lawyers to do a job for their clients pursuant to the Sixth Amendment and expects the required zealous advocacy. Florida Lawyers are required to “act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client’s behalf pursuant to the Rules Regulating The Florida Bar.” No lawyer should be admonished by the court for providing the best defense possible for their client within the confines of the law - no matter the charge or result of the case.

Further, upon conclusion of the sentencing hearing, Judge Scherer stepped off the bench and proceeded to hug the prosecutor’s involved in the case. Pursuant to the Code of Judicial Conduct for the State of Florida, Canon 2 (A) provides, “A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” The very act of Judge Scherer, a former state prosecutor, hugging the prosecutors violates this Canon. This was done in the courtroom and videos of this are circulating throughout social media and other media outlets. Any defendant appearing before Judge Scherer would appear before a judge who has demonstrated that she cannot be fair or impartial and has betrayed the public confidence in her ability to preside over criminal matters.

Considering all this conduct, which evidences an inability to be impartial, a lack of respect due to counsel, and a demeanor that shows bias against the defense function.

On behalf of BACDL and our deeply concerned members, I have been asked to insist that you as Chief Judge take swift action to guarantee Judge Scherer is not able to prejudice Defendant’s appearing in front of her in the future. The judicial system is jeopardized when any one actor undermines the integrity of the system and the treatment of the defense lawyers in the Cruz case at sentencing requires review and action.

Sincerely,

Lindsay Lawrence Chase, Esq.
President of BACDL
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