

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

UNITED STATES, §
v. § Cr. No. C-98-303 (3)
LADANIEL MARSHALL. §

ORDER DENYING MOTION TO WITHDRAW

Pending before the Court is a motion to withdraw as appellate counsel, filed by appointed counsel Nate Rhodes. (D.E. 225.) Rhodes represented the Defendant, LaDaniel Marshall, in Marshall's revocation proceedings. After judgment was entered, Marshall filed a notice of appeal and also asked for the appointment of counsel. In his motion seeking appointment of counsel, he made the general statement that Rhodes "wasn't prepared well" for the revocation hearing. (D.E. 208 at 1.) On April 1, 2008, the Court granted Marshall's motion for appointment of counsel and appointed Rhodes as counsel for the appeal. (D.E. 223.)

Rhodes has now filed a motion seeking leave to withdraw based on Marshall's comment that Rhodes was not sufficiently prepared for the revocation proceedings, and also makes a vague reference to Marshall's family being unsatisfied with his representation of Marshall. Relying on these statements, he cites "a conflict of interest" as grounds for his motion. (D.E. 225.)

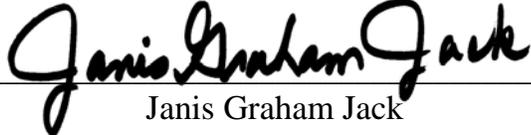
The Court appointed Rhodes as counsel because he is already familiar with Marshall's case. Neither Marshall's vague statement regarding Rhodes being unprepared, nor Rhodes' statement that Marshall's family is unsatisfied with Rhodes shows a sufficient conflict of interest warranting appointment of different appellate counsel. Moreover, despite Marshall's generic and vague prior statement that counsel wasn't prepared, at the revocation proceeding, Marshall told the Court at the

beginning of that proceeding that he was satisfied with the advice and efforts of his attorney. (Digital Recording of January 14, 2008 Revocation Proceedings at 1:58.)

In the absence of any specific or detailed claim of a conflict of interest, or other claim justifying the substitution of counsel, the Court declines to substitute counsel. Cf. FIFTH CIRCUIT PLAN UNDER THE CJA § 5(B) (allowing substitution of appellate counsel upon a required showing of a “conflict of interest or other most pressing circumstances or that the interests justice otherwise require relief of counsel”).

Accordingly, Rhodes’ motion to withdraw (D.E. 225) is DENIED.

It is so ORDERED this 22nd day of April, 2008.



Janis Graham Jack
United States District Judge