

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION**

UNITED STATES OF AMERICA

V.

CRIMINAL NO. 3:08cr170-DPJ-JCS

CASSANDRA FAYE THOMAS

**RESPONSE OF T.H. FREELAND, IV AND JOYCE FREELAND  
TO MOTION FOR SUBSTITUTION OF COUNSEL**

T.H. Freeland, IV and Joyce Freeland make this response to the Motion to Substitute Counsel filed by Dr. Cassandra Thomas:

1. Ordinarily, undersigned counsel would consent to a motion for substitution of counsel because a client has a right at any time for any reason to discharge counsel. However, the motion for substitution of counsel filed on behalf of Dr. Cassandra Thomas contains misstatements or misrepresentations of fact that any amount of investigation by new counsel for Dr. Thomas would have revealed were false.

2. Counsel has a duty of candor to the Court under Rule 3.3 of the Rules of Professional Conduct. New proposed counsel for Dr. Cassandra Thomas has made false statements of material fact prohibited by Rule 3.3(a)(1) and has been notified of this but has as yet taken no remedial measures as required by Rule 3.3(a)(4). Due to the ease with which the falsehood of these statements could have been verified and the inflammatory nature of these statements, undersigned counsel would have expected a minimal investigation prior to making them and, failing that, an immediate correction.

3. Additionally, undersigned counsel has a duty of disclosure imposed by Rule of Professional Conduct 3.3(a)(2).

4. The motion makes the following factual assertion:

Mr. Freeland was charged with simple assault and trespass by Susan White. ... This lead to the arrest and incarceration of Mr. Freeland on March 31, 2011.

T.H. Freeland, IV was served with papers that consisted of a misdemeanor complaint on March 31, 2011. A city police officer served them in the Freeland & Freeland office (which occupied about ten minutes). T. H. Freeland, IV was not arrested and was not incarcerated. Affidavit of T.H. Freeland, IV (Exhibit A), attached to this response. Any contact with the City of Oxford would have revealed that the statement that Mr. Freeland was arrested or incarcerated was false. *Id.* Additionally, the charges are frivolous, and T.H. Freeland, IV is vigorously defending them.

5. The motion also asserts:

Accordingly [because of the arrest that never occurred] during the critical hours leading up to trial which started on Monday, April 4, 2011, Defendant was not able to communicate with counsel.

As set forth in the affidavit of T.H. Freeland, IV (Exhibit A) and Joyce Freeland (Exhibit B) attached to this response, neither T.H. Freeland, IV nor Joyce Freeland were unavailable to the defendant at any time during the week prior to the trial, during which they both were available to Dr. Thomas and working on her case to the exclusion of all other business. On March 31, 2011, the date T.H. Freeland, IV was allegedly “unavailable,” his cell phone records show three calls of varying lengths to Dr. Thomas, over a half dozen to an investigator, and a large number of additional calls to witnesses and others involved in trial preparation for the case. Exhibit A. This does not include contact through office telephones, almost twenty lengthy text messages between Joyce Freeland and Dr. Thomas

concerning trial exhibits, two e-mails from Joyce Freeland to Dr. Thomas on March 31, 2011, concerning a draft and final list of exhibits, and other contact. Exhibit B.

6. The misdemeanor charge did not occupy the time of either undersigned counsel more than briefly. T.H. Freeland, IV did not even take the steps of retaining counsel on the misdemeanor charge until after Dr. Thomas's trial was complete. Exhibit A.

7. The motion asserts:

T. H. Freeland, IV and Joyce Freeland [were] involved in a confrontation shortly before the trial started in this matter...

T.H. Freeland, IV and Joyce Freeland were not "involved in a confrontation shortly before the trial started in this matter..." Exhibit A; Exhibit B. The police report states a fanciful and false account of events that occurred on March 25, 2011, which was nine days before the trial.

7. The motion asserts:

Defendant also noticed times through the trial, where defense counsel did not seem attentive to details and failed to adequately represent Defendant.

Counsel was attentive to details during the trial and adequately represented Defendant. Exhibit A. This representation relates to facts and circumstances which this Court itself would have observed.

This the 20th day of May, 2011.

Respectfully submitted,

COUNSEL FOR CASSANDRA FAYE  
THOMAS

s/ Joyce Freeland  
Joyce Freeland  
Bar No. 102183

s/ T.H. Freeland, IV  
T.H. Freeland, IV  
Bar No. 5527

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**CERTIFICATE OF SERVICE**

I, Joyce Freeland, hereby certify that on the 20th day of May, 2011, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Scott Gilbert  
Scott.Gilbert@usdoj.gov

Robert Gibbs  
rgibbs@brunini.com

Additionally, I have served a copy by electronic mail to the following:

Karen Livingston Wilson  
karenlw@livingston-wilson.com

/s/ Joyce Freeland  
Joyce Freeland

**DECLARATION OF T.H. FREELAND, IV**

I, T.H. Freeland, IV, declare as follows:

1. I am T.H. Freeland, IV, a lawyer in Oxford, Mississippi, and one of the lawyers at Freeland & Freeland, Lawyers. I was counsel in *United States v. Cassandra Thomas*.

2. I was served with papers that consisted of a misdemeanor complaint on March 31, 2011. A city police officer served them in the Freeland & Freeland office (this meeting with the police officer occupied about ten minutes).

3. I was not arrested and was not incarcerated at that time and have not ever been arrested in connection with those misdemeanor charges..

4. Any contact with the City of Oxford would have revealed that the statement that I was arrested or incarcerated was false.

5. There are apparently false and defamatory statements circulating on the internet suggesting that I have been arrested, when I have not. New counsel for Dr. Thomas has apparently come before this court retailing these rumors without any attempt to verify the actual facts.

5. The charges are frivolous, and I am vigorously defending them.

6. The motion filed contains an allegation that I was ineffective in my representation of Dr. Thomas. While this allegation constitutes a waiver of any attorney-client privilege between me and Dr. Thomas, I am not in this declaration disclosing the content of any communication with Dr. Thomas but only facts concerning the amount of contact because of the false statements in the motion about defense counsel being unavailable.



**DECLARATION OF JOYCE FREELAND**

I, Joyce Freeland, declare as follows:

1. I am Joyce Freeland, a lawyer in Oxford, Mississippi, and one of the lawyers at Freeland & Freeland, Lawyers. I was counsel in *United States v. Cassandra Thomas*.

2. The motion filed contains an allegation that I was ineffective in my representation of Dr. Thomas. While this allegation constitutes a waiver of any attorney-client privilege between me and Dr. Thomas, I am not in this declaration disclosing the content of any communication with Dr. Thomas but only some facts concerning the amount of contact because of the false statements in the motion about defense counsel being unavailable.

3 I was not unavailable to the defendant consistently throughout the week prior to the trial. During that week, I was available to Dr. Thomas and working on her case to the exclusion of all other business.

4. On March 31, 2011, I was in continuous contact with Dr. Thomas by telephone, including almost twenty lengthy text messages, by e-mail concerning a draft and final list of exhibits, and by other contact.

5. The misdemeanor charge did not occupy my time more than briefly, in part, because I knew that several of the statements made by Susan White to the police were misleading and false and because I had proof to that effect.

6. I was not involved in a confrontation with T.H. Freeland, IV shortly before the trial started in this matter. The argument referred to in Susan White's charges concerning an evening more than a week to prior to trial was not witnessed by her and involved my telling my husband that she had suddenly become despondent and to be sure that she got home safely.



I declare under penalty of perjury under the laws of the United States of America including 28 U.S.C. §1746, that the foregoing is true and correct.

Executed on May 20, 2011.

/s/ Joyce Freeland  
Joyce Freeland



Exhibit B