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The Death Penalty

Gov. Rick Scott removes state attorney from murder case; *Fifth Judicial Circuit State Attorney Brad King is appointed*

By Jeff M. Hardison © March 17, 2017 at 8:57 a.m.

TALLAHASSEE -- Fifth Judicial Circuit State Attorney Brad King was appointed as the special prosecutor in a murder case by Gov. Rick Scott on Thursday (March 16) after Ninth Judicial Circuit Court State Attorney Aramis Ayala said she will not seek the death penalty in a murder case, according to information from the Governor's Office, and the Florida Sheriffs Association.

There are 20 state judicial circuits that include the 67 counties of Florida.

The Fifth Judicial Circuit includes Citrus, Hernando, Lake, Marion and Sumter counties.

The Ninth Judicial Circuit of Florida includes Orange and Osceola counties.

In a Thursday press release, the Florida Sheriffs Association condemned State Attorney Ayala for what it calls "dereliction of duty," because of her stance in regard to the death penalty.

"The Sheriffs of Florida stand with Gov. Rick Scott and Attorney General Pam Bondi today (Thursday, March 16) as we condemn the unconscionable decision by State Attorney Aramis Ayala to not seek the death penalty in the prosecution of Markeith Loyd," FSA President Sheriff Jerry Demings said. (Demings is the sheriff of Orange County.)

"By refusing to pursue the death penalty in this horrific case, State Attorney Ayala missed an opportunity to ensure that justice was served for the Clayton and Dixon families," Sheriff Demings noted. "The Florida Sheriffs will not stand idly by and watch as Loyd is not prosecuted to the fullest extent of the law after executing a hero, Orlando Police Lt. Debra Clayton, and murdering his pregnant ex-girlfriend. Orange County Deputy Norman Lewis was also tragically killed during the manhunt."

The FSA endorses the executive order enacted by Gov. Scott to remove one state attorney and assign another to this case.

"Justice must be served and must be fitting of the crime," Sheriff Demings wrote. "A killer does not deserve a reduced consequence of living while his victims and their families must deal with death."

The governor released a statement about his action.

"Earlier today, I called on State Attorney Ayala to immediately recuse herself from this case," Scott said in a statement. "She informed me this afternoon that she refuses to do that. She has made it clear that she will not fight for justice, and that is why I am using my executive authority to immediately reassign the case."

To justify his executive order, Gov. Scott cited a state law allowing Florida's governor to appoint a different prosecutor if he finds a "good and sufficient reason" to take it away from the original prosecutor.

State Attorney Ayala issued a statement late Thursday, noting that her office would abide by Scott's order.

"Upon receipt of any lawful order, my office will follow that order and fully cooperate to ensure the successful prosecution of Markeith Loyd," she noted.

Ayala announced that she would not seek the death penalty against Loyd or anyone else.

"I have determined that doing so is not in the best interest of the community or the best interest of justice," she had said.

Ayala's announcement was not made public before, despite a five-month campaign for public office, during which she was repeatedly asked about her stance.

State law does not require any state attorney to seek the death penalty. There is no mandatory

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death penalty clause in Florida law.

Ayala, 42, has been in her office since Jan. 3. She beat previous incumbent Ninth Judicial Circuit State Attorney Jeff Ashton in the primary election in August.

Ayala said she will not pursue the death penalty because it provides no public safety benefits. The death penalty, she said, is not a deterrent to crime and that it costs the state more than cases in which a defendant is sentenced to life in prison.

Ayala made the announcement the same week that Gov. Scott signed into law a new death penalty statute, one that requires all 12 jurors to vote for the death penalty.

Capital punishment is a legal penalty in the state of Florida.

As of March 14, there were 381 offenders who are awaiting execution, according to the Death Row Roster published by the Florida Department of Corrections.

The United States Supreme Court in 1972 ruled executions were a violation of the U.S. Constitution, however that ruling was overturned by the United States Supreme Court in 1976 and Florida performed the first involuntary execution after the Supreme Court, in the 1976 case *Gregg v. Georgia*, permitted the death penalty once more. John Arthur Spenkelnik was electrocuted on May 25, 1979, in Florida, according to a June 4, 1979, *Time* magazine story published about the death penalty.

The Death Penalty Information Center (DPIC) shows the history of the death penalty in Florida.

"Prior to 1923, executions in Florida were carried out by the county, rather than the state," the DPIC notes. "Florida changed execution methods from hanging to electrocution, when it placed executions under state control."

Following is a modified DPIC timeline with editing by *HardisonInk.com*.

- 1827 - First known execution in Florida, Benjamin Donica hanged by the neck for murder.
- 1845 - Florida becomes a state in the United States of America.
- 1923 - A bill places all executions in Florida under state (rather than local) jurisdiction, and substitutes hanging as the form of execution with the electric chair being the new form to kill people.
- 1972 - The United States Supreme Court strikes down the death penalty in *Furman vs. Georgia*. Florida subsequently passes a new capital punishment statute, which is upheld.
- 1976 - The United States Supreme Court reinstates the death penalty when it upholds Georgia's statute in *Gregg vs. Georgia*. In *Proffitt vs. Florida*, the United States Supreme Court upholds the Florida statute.
- 1979 - Florida is the first state in the United States to carry out a non-voluntary execution post-*Gregg* when it executes John Spenkelnik.
- 1989 - Florida executes notorious serial killer Ted Bundy.
- 1990s - Florida botches the electric chair executions of Jesse Tafero, Pedro Medina, and Allen Lee Davis and subsequently begins using lethal injection as its execution method.
- 2002 - Florida executes Aileen Wuornos, tagged as "the first female serial killer" by "the media."
- 2017 - Florida Ninth Judicial Circuit State Attorney Aramis Ayala says she will not seek the death penalty in any criminal cases.
- 2017 - Florida Gov. Rick Scott executes order to remove Florida Ninth Judicial Circuit State Attorney Aramis Ayala from a murder case and appoints Florida Fifth Judicial Circuit State Attorney Brad King to prosecute that case.