

AFFIDAVIT OF SHEILA ALU

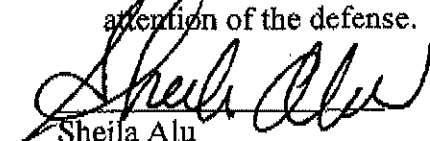
The undersigned affiant, Sheila Alu, after being duly sworn, deposes and states as follows:

1. I am a licensed attorney in the State of Florida currently employed as of January 2, 2008, as an Assistant State Attorney by the Office of the State Attorney, 17th Judicial Circuit.
2. On March 23, 2007, I was having dinner with two friends. Judge Gardiner called my cell phone and asked me if I wanted to go to Boca with her and her friends. I told her I was already on Las Olas having dinner with my girlfriends, and she asked if she could join us. I told her where we were and asked whom she was with. She said, "I am with someone I should not be with." Jokingly I said to her, "we are all with someone we shouldn't be with." I had no idea at the time that she was actually referring to being with Assistant State Attorney Sheinberg. I told Ana that she was welcomed to join us at Tampano's, and I would have the waiter move the tables to accommodate the extended party.
3. When Ana arrived, she was with Assistant State Attorney Howard Sheinberg and Circuit Court Judge Charles Kaplan.
4. We ordered drinks and entered into conversation. During the course of the conversation, Judge Gardiner and Attorney Sheinberg made jokes about a victim and defendant being gay. They also discussed a juror passing out after seeing photographs in a trial, and that Judge Gardiner overruled defense counsel's objection that the photos were more prejudicial than probative.
5. At some point during this conversation, I realized that they were discussing a pending case between Judge Gardiner and ASA Sheinberg.
6. After studying for the ethics portion of the BAR Exam and having just taken the ethics portion of the BAR Exam, I realized that this was an inappropriate ex-parte discussion, of which I wanted nothing to do with. I immediately got up from the table and went to the bar. My girlfriend, Lucy, got up from the table and followed me to the bar to inquire what was wrong. I informed Lucy that the conversation that was being discussed at the table was totally against the rules.
7. We rejoined the table to eat our meal. After some uncomfortable discussions, Lucy and her friend left the restaurant. Ana, Howard, Charlie, and I left the restaurant and meet at Blue Martini for after dinner drinks. My girlfriends left quite angrily because they were very upset about the prior dinner conversation.
8. Judge Gardiner suggested that I take ASA Sheinberg and that Judge Kaplan would drive her to Blue Martini and we would meet up there.

9. The valet got my car, and Attorney Sheinberg and I started driving to Blue Martini. As we drove off, I immediately asked Sheinberg if he was crazy for talking to the presiding Judge about an ongoing murder trial, and asked him what he was thinking. Sheinberg responded that if I felt that he had in some way violated his code of ethics that I knew my ethical obligation was to report him to the Florida Bar. I told ASA Sheinberg that I had no intentions to do so, but that I thought that this conversation was a direct violation of their ethical code and that I just couldn't believe that he would discuss the case with the Judge who was presiding over the matter.
10. When we arrived at Blue Martini, ASA Sheinberg immediately approached Judge Gardiner and Judge Kaplan and spoke to them.
11. Ana approached me and asked me what had happened in the car. I told her that I could not believe that they were discussing this pending matter before her and how upset my girlfriends were at their conduct let alone how embarrassing I felt due to their conduct.
12. Soon after my discussion with Ana, I left Blue Martini as me bringing this matter to her attention was quite uncomfortable to me as it appeared to be to her.
13. A day or two later, I received a call from a mutual friend of Ana's, and Judge Kaplan who told me that he had received a call from Judge Kaplan who he said seemed concerned about the whole event. This person asked me if I was going to file a complaint and what were my intentions. As a law student with the hope of becoming an Assistant State Attorney, I was afraid of making their ex-parte discussion public, nor did I know the appropriate avenue in which to make this conversation known.
14. A week or so later, I took a break from studying for the BAR and I was reading the Sun-Sentinel. I just so happened to come across an article about a criminal case involving Judge Gardiner and ASO Sheinberg about pictures admitted into a murder trial and a juror fainting upon viewing the pictures. The article also stated that the defendant had been found guilty of murder and that he was sentenced to death.
15. After reading the article, I called my attorney, Stuart Michelson, and asked him if I had an ethical duty to inform anyone of their ex-parte conversation. Mr. Michelson advised that I had no legal nor ethical duty because I was not yet a member of the Florida Bar. I still felt sickened by the whole experience, as I have always believed that a defendant regardless of the crime has a constitutional right to a fair trial and an unbiased tribunal. Although I was given advice that I had no legal or ethical obligation to report the conversation, knowing this information and not coming forward ate at me. However, I really thought that Judge Gardiner and Attorney Sheinberg would take some

kind of action to ensure the defendant a new trial especially due to my reaction to the whole thing. Unfortunately, this was not the case, and my relationship with Ana became strained and ceased shortly thereafter.

16. On January 2, 2008, I took a position with the State Attorney's Office. Soon after being hired, I called State Attorney Michael Satz and requested a meeting. I met personally with Mr. Satz and his Chief Assistant State Attorney Chuck Morton. I advised both of the conversation between Judge Gardiner and Attorney Sheinberg. Mr. Satz and Mr. Morton advised me to call the Florida Bar ethics hotline and inquire as to whether my obligation changed with my admission to the Bar.
17. On April 25, 2008, The New Times ran an article about Judge Gardiner and some of the article related to this ex-parte communication. About two weeks after the article ran, Judge Charles Kaplan invited me to lunch and asked me what I intended on doing. He advised me that he really didn't overhear the conversation that transpired that evening. Although my girlfriends who were at the table feel the quite opposite.
18. After disclosing this information to the State, I am sure that Mr. Satz and/or Mr. Morton conducted a full investigation as to these allegations and they would intervene in the case and bring the matter to the attention of the defense.


Sheila Alu

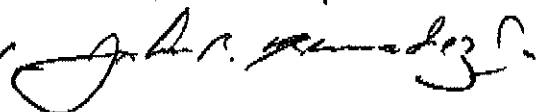
State of Florida)
County of Broward)

Before me, the undersigned authority, this day personally appeared Sheila Alu being duly sworn states that she has read the foregoing and that all of the matters are true and correct.


Sheila Alu

Sworn and Subscribed before me
this 29 day of September, 2008.
Notary Public

Personally known Produced Identification
Type of Identification:

Notary 



John R. Fernandez, Sr
Commission # DD498889
Expires December 6, 2009
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