

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT,
IN AND FOR BROWARD COUNTY, FLORIDA

STATE OF FLORIDA,
Plaintiff,

CASE NO.: 18-1958CF10A

vs.

JUDGE: ELIZABETH SCHERER

NIKOLAS CRUZ,

Defendant.

_____/

STATE'S MOTION TO INTERVIEW JUROR (SF-230)

The State of Florida, by and through the undersigned Assistant State Attorney, pursuant to Fla. R. Crim. P. 3.575, requests this Court grant an interview of one of the jurors in the State v. Nikolas Cruz trial, and in support thereof shows the following:

At approximately 2:14 p.m. on October 13, 2022, the day the verdict was rendered in the instant case, a juror who shall be referred to for purposes of this pleading as Juror X, called the Office of the State Attorney and requested to speak to Assistant State Attorney Michael Satz. Juror X spoke to a support staff member and informed the support staff member that during deliberations she received what she perceived to be a threat from a fellow juror while in the jury room. The State did not call Juror X back and instead, filed a Notice to the Court. Juror X's identity shall be disclosed to the Court *in camera*. The State¹ requests an interview be granted to investigate this serious allegation because a crime may have been committed.

¹ Rules of Professional Conduct Rule 4-3.5(d)(4) states "after dismissal of the jury in a case with which the lawyer is connected, initiate communication with or cause another to initiate communication with any juror regarding the trial except to determine whether the verdict may be subject to legal challenge; provided, a lawyer may not interview jurors for this purpose unless the lawyer has reason to believe that grounds for such challenge may exist; and provided further, before conducting any such interview the lawyer must file in the cause a notice of intention to interview setting forth the name of the juror or jurors to be interviewed. A copy of the notice must be delivered to the trial judge and opposing counsel a reasonable time before such interview. The provisions of this rule do not

Pozo v. State, 963 So.2d 831, 834 (Fla. 4th DCA 2007) is squarely on point. In *Pozo*, after the verdict, a juror wrote to the judge of her dismay over the jury deliberations. She further added that she was struggling with “the aggressive behavior by two of my fellow jurors.” Upon becoming aware of the *Pozo* juror’s letter, defense counsel filed a notice of intention to interview jurors, claiming that the letter reflected that this juror and possibly other jurors were concerned about possible repercussions to themselves.

Florida Rule of Criminal Procedure 3.575 provides the procedure for interviewing jurors in criminal cases and states:

A party who has reason to believe that the verdict may be subject to legal challenge may move the court for an order permitting an interview of a juror or jurors to so determine. The motion shall be filed within 10 days after the rendition of the verdict, unless good cause is shown for the failure to make the motion within that time. The motion shall state the name of any juror to be interviewed and the reasons that the party has to believe that the verdict may be subject to challenge. After notice, and hearing, the trial judge, upon a finding that the verdict may be subject to challenge, shall enter an order permitting the interview, and setting therein a time and a place for the interview of the juror or jurors, which shall be conducted in the presence of the court and the parties. If no reason is found to believe that the verdict maybe subject to challenge, the court shall enter its order denying permission to interview.

All that is required under Rule 3.575 is a statement of reasons why the verdict may be subject to challenge. Therefore, rejecting juror interviews for the failure to have sworn proof was in error. *Pozo*, *Id.* at 835.

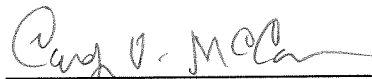
This Court has a duty to investigate this allegation. Since this is a potential crime, the State requests that law enforcement conduct the interview of Juror X rather than the Court or the parties. Other grounds to be argued *ore tenus*.

prohibit a lawyer from communicating with members of the venire or jurors in the course of official proceedings or as authorized by court rule or written order of the court.

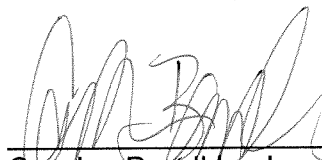
WHEREFORE, for the aforementioned reasons, the State's Motion to Interview Juror should be GRANTED.

Respectfully submitted,

HAROLD PRYOR
State Attorney



Carolyn V. MCCANN, Esq.
Assistant State Attorney
Fla. Bar No. 380393
State Attorney's Office
201 SE 6th Street, 7th Floor
Fort Lauderdale, Florida 33301




Carolyn Bandklayder, Esq.
Assistant State Attorney
Fla. Bar No. 737161
State Attorney's Office
201 SE 6th Street, 7th Floor
Fort Lauderdale, Florida 33301

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Response was furnished by U.S. Mail and email this 13th day of October, 2022 to: Office of the Public Defender, Attorneys for the Defendant: Melisa McNeill, Esq., David Wheeler, Esq., Tamara Curtis, Esq. and Nawal Bashimam, Esq.

Respectfully submitted,

HAROLD PRYOR
State Attorney


CAROLYN V. MCCANN