



U.S. Department of Justice

U.S. Attorney's Office, District of New Jersey

Appeals Division

Steven G. Sanders
Assistant U.S. Attorney

970 Broad Street, Suite 700
Newark, NJ 07102

(973) 645-2847
FAX (973) 645-2008

January 23, 2019

BY ECF

Hon. Peter G. Sheridan, U.S.D.J.
U.S. District Court, D.N.J.
Clarkson S. Fisher Federal Building
and United States Courthouse
402 East State Street
Trenton, New Jersey 08608

Re. *William Baskerville v. United States*, Civil No. 13-5881

Dear Judge Sheridan:

The Government has received defendant William Baskerville's letter complaining about his alleged inability to contact Mr. Throckmorton, whom Your Honor appointed as counsel under the Criminal Justice Act ("CJA").

While we take no position on what action this Court should take, we do object to Baskerville's request that Your Honor appoint Mark A. Berman, Esq., to replace Mr. Throckmorton because Mr. Berman has a conflict of interest that we doubt could be waived. Mr. Berman served as CJA counsel for Baskerville's direct appeal. But Baskerville's § 2255 motion accused Mr. Berman of deficient performance in the handling of that appeal. Mr. Berman, in turn, filed a sworn declaration disputing Baskerville's claims. Though Baskerville claims he's willing to waive those ineffectiveness claims (now that they've been rejected), we think it would be unseemly at the very least for this Court to appoint an attorney who appeared as a witness against his own former client in the very proceeding for which his representation is sought. *See United States v. Curanovic*, Crim. No. 08-240, 2011 WL 1555075, at *4 (E.D.N.Y. Apr. 1, 2011) (stating that "[a] defendant has no right to choose a particular CJA counsel," and rejecting defendant's request for appointment of attorney with unwaivable conflict of interest).

Respectfully submitted,

CRAIG CARPENITO
United States Attorney

By: s/ STEVEN G. SANDERS
Assistant U.S. Attorney

cc: Bruce L. Throckmorton, Esq. (by ECF)
William Baskerville (by U.S. Mail)