

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

**UNITED STATES OF AMERICA**

**VS.**

**CASE NO. 6:22-cr-116-WWB-EJK**

**MARIA DEL CARMEN MONTES**  
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**ORDER**

This cause comes before the Court on the United States’s Motion to Disqualify Counsel for Defendant Maria Del Carmen Montes (the “Motion to Disqualify”) (Doc. 95), filed October 25, 2023. Defendant Montes has responded in opposition. (Doc. 99.) The Court heard oral argument on the Motion to Disqualify on November 8, 2023. (Doc. 102.)

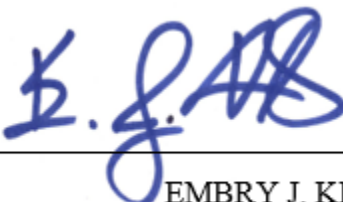
At the hearing, it was established that Defendant Montes’s attorney, Harold Thompson, represented both Defendant Montes and her co-Defendant and husband, Carlos Ferrer, prior to the grand jury’s return of the Indictment (Doc. 1) in this case. Mr. Thompson’s representation involved assisting both Defendant Montes and Defendant Ferrer in responding to a grand jury subpoena from the United States. Defendant Ferrer has now pleaded guilty to Count One of the Indictment pursuant to a plea agreement with the United States (Docs. 73, 83), and the United States intends to call Defendant Ferrer as a witness against Defendant Montes at trial.

The Eleventh Circuit has made clear that “[t]he need for fair, efficient, and orderly administration of justice overcomes the right to counsel of choice where

an attorney has an actual conflict of interest, such as when he has previously represented a person who will be called as a witness against a current client at a criminal trial.” *United States v. Ross*, 33 F.3d 1507, 1523 (11th Cir. 1994). “Indeed, even a potential conflict suffices for disqualification.” *Id.* In light of the serious potential for a conflict of interest at trial, the potential ancillary proceedings regarding that conflict, and the possibility of a mistrial if Mr. Thompson were to cross-examine his former client, Defendant Ferrer, the undersigned finds that the presumption in favor of Defendant Montes’s counsel of choice must give way to the fair, efficient, and orderly administration of justice.

Therefore, for these reasons and the reasons stated on the record at the hearing, it is **ORDERED** that the United States’s Motion to Disqualify Counsel for Defendant Maria Del Carmen Montes (Doc. 95) is **GRANTED**. Attorney Harold Thompson is **DISQUALIFIED** from his representation of Defendant Maria Del Carmen Montes. Attorney A. Brian Phillips is **APPOINTED** to represent Defendant Montes pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A.

**DONE** and **ORDERED** in Orlando, Florida on November 8, 2023.

  
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EMBRY J. KIDD  
UNITED STATES MAGISTRATE JUDGE