

**STATEMENT FROM CURRENT OR FORMER JUDGES, PROSECUTORS, AND LAW
PROFESSORS REQUESTING REVERSAL OF DECISION TO REMOVE AYALA FROM THE
MARKEITH LOYD PROSECUTION - Updated March 27, 2017**

March 20, 2017

Office of Governor Rick Scott
State of Florida
The Capitol
400 S. Monroe St.
Tallahassee, FL 32399-0001

Dear Governor Scott:

We are current or former prosecutors, judges, and law professors in the State of Florida and around the nation. We are deeply troubled by your effort to relieve State Attorney Aramis D. Ayala of her constitutional and statutory duties in the Markeith Loyd case. We believe that this effort to remove State Attorney Ayala infringes on the vitally important independence of prosecutors, exceeds your authority, undermines the right of residents in Orange and Osceola counties to the services of their elected leaders, and sets a dangerous precedent.

First, as prosecutors, judges, and law professors, we are deeply committed to maintaining and upholding the integrity of our criminal justice system. State Attorney Ayala, as the duly elected, constitutional office holder of State Attorney for the Ninth Judicial Circuit, is solely empowered to make prosecutorial decisions for her circuit. Your executive order that seeks to remove State Attorney Ayala from this position in the Loyd case--absent any showing that her decision is violative of the state or federal Constitution--compromises the prosecutorial independence upon which the criminal justice system depends. State Attorneys possess extremely broad discretion to decide when, and how, to prosecute. Indeed, Florida's entire criminal justice system is premised on the independence of prosecutors and their sole responsibility to enforce criminal laws in the state. Your unprecedented order in this matter, which seeks to unilaterally relieve State Attorney Ayala of her duties in a local prosecution, exceeds your executive authority and compromises the integrity and independence of the prosecutorial branch and function.

Second, your removal of State Attorney Ayala compromises Floridians' right to the services of their elected leaders. Floridians in the Ninth Judicial Circuit elected State Attorney Ayala because she represents their local values and concerns. As reflected in her public statements, and consistent with her duty to serve Orange and Osceola counties, State Attorney Ayala deliberately considered whether pursuing the death penalty for Loyd was in the best interest of her community. Her public statements make it manifestly clear that she based her decision on research, data, and an intensive analysis of her ethical duties. This is just the type of analysis prosecutors perform every day when deciding whether to charge a case, seek specified penalties, or advocate for particular sentences. Not all of us agree with her decision. But we do agree that she had the authority and discretion to make it. The removal of State

Attorney Ayala from the Loyd prosecution because you might disagree with her exercise of discretion undercuts the decision-making powers of the local elected leader who is charged with upholding the administration of justice and exercising prosecutorial authority. Furthermore, the majority of Floridians agree with State Attorney Ayala's decision; a 2016 poll revealed that two-thirds of Floridians prefer imposition of a sentence of life without parole over the death penalty. Respectfully, State Attorney Ayala, not the governor, is the elected representative of the community responsible for how to prosecute crime in Orlando. Seeking to take that power away from her in this manner undercuts the importance of local sentiment and the will of the people of Florida.

Finally, we believe this action sets a dangerous precedent. The governor picking and choosing how criminal cases are prosecuted, charged or handled in local matters is troubling as a matter of policy and practice. Indeed, there appears to be no precedent in Florida for this type of use of power.

Your removal of State Attorney Ayala is deeply concerning to us, and should be to all Floridians. We urge you to reverse your decision to remove State Attorney Ayala from the Loyd prosecution.

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