

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

STATE OF FLORIDA,

Plaintiff,

v.

DEREK ROSA,

Defendant.

Case No. F23021321

Section 13

Judge HERSCH

**AMENDED MOTION TO COMPEL DEFENDANT'S MEDICAL, MENTAL HEALTH,
PSYCHOLOGICAL, SOCIAL WORK, AND EDUCATIONAL RECORDS**

**MOTION TO COMPEL NAMES OF EXPERT WITNESSES WHO WILL TESTIFY AT
TRIAL AND/OR HEARING ON MOTION TO SUPPRESS STATEMENTS**

COMES NOW KATHERINE FERNANDEZ RUNDLE, State Attorney of the Eleventh Judicial Circuit of Florida, by and through the undersigned Assistant State Attorney, and moves this Honorable Court for an Order to Compel Defendant's medical, mental health, psychological, social work, and educational records for good cause, as well as the names of expert witnesses who will testify at trial and/or hearing on the defense's motion to suppress statements:

1. On December 15, 2023, this Court entered an order denying the Defendant's motion for remand of the Defendant to the Miami-Dade Regional Juvenile Center.
2. The Court reviewed school, jail, and medical records, as well as activity logs, and determined that there was no clearly identified violation of the Defendant's constitutional rights. The State was given access to these records without objection by the defense.
3. On July 4, 2024, the defense filed a motion for the Court to reconsider its ruling, claiming that the Defendant was being deprived of his right to an education, and that he suffers from ADHD and undiagnosed autism, among other claims.
4. In an effort to address the defense's ongoing concerns, the Court ordered the defense to provide relevant records to the Court for the purpose of addressing detention conditions for the benefit of the Defendant.

5. Following the Court's order, the defense filed a petition for writ of certiorari with the Third District Court of Appeals in case no. 3D24-1662 to block the Court from having access to these ordinarily protected records.
6. Although the appeals court acknowledged the "care and insight behind the actions of the seasoned trial judge," it quashed the Court's order until such time that "an interested party files a motion seeking access to the confidential records at issue." See *Rosa v. State*, 2025 WL 15550 at *2 (3rd DCA January 2, 2025) citing *State v. Johnson*, 814 So. 2d 390, 393 (Fla. 2002).
7. On March 10, 2025, the State filed a motion to compel seeking the Defendant's medical, mental health, psychological, social work, and educational records. The Court reserved ruling at that time.
8. On May 28, 2025, the defense filed a motion to suppress statements made by the Defendant post-Miranda to homicide detectives, alleging that these statements were not voluntarily made.
9. In support of this argument, the defense raised claims that the Defendant has been diagnosed with autism spectrum disorder and attention deficit/hyperactivity disorder (ADHD), and that these conditions prevent the Defendant from "understanding legal rights."
10. Additionally, the motion references testimony from a teacher where she opines that the Defendant has a learning disability that impacts his understanding of educational materials.
11. On June 13, 2025, the defense confirmed that they intend to present expert witnesses during the hearing on their motion to suppress. A hearing on the motion is tentatively set for September 2025.
12. Thus, the defense has directly raised the Defendant's physical, mental, and psychological condition and development, and how they affect his ability to voluntarily waive Miranda rights.
13. When a party has placed "a matter ordinarily privileged" at issue, they effectively waive any claim of privilege relating to relevant evidence on that issue. See Section IV.A. of Trial Court's Response to the Petition for Writ of Certiorari, citing *Revello Med. Mgmt., Inc. v. Med-Data Infotech USA, Inc.*, 50 So. 3d 678, 680 (Fla. 2d DCA 2010)).

14. Accordingly, in light of the fact that the Court intends to conduct a hearing on the Defendant's motion to suppress statements, the State has a compelling governmental interest in receiving the records sought. The State requires these records to adequately address the defense's claim that the Defendant does not have the capacity or ability to voluntarily waive Miranda rights.
15. Production of medical, mental health, psychological, social work, and educational records is therefore necessary as it contains evidence to be introduced during the Court's hearing on the defense's motion to suppress.
16. Without the production of these updated records in advance of any hearing, the State will be unable to adequately respond to the Defendant's claims. Further, the Court will be provided only limited information, and will be prevented from making a fully informed ruling.
17. As a matter of fundamental fairness in discovery, at this juncture the State should have the same access to these records as the defense to prepare for pre-trial motions they have filed, and present evidence to the Court.
18. Additionally, the State seeks the names of defense expert witnesses as soon as practicable so that their depositions can be scheduled within the timeframe set by the Court. Depending on the substance of their testimony, the State may also seek previously retained State experts to assess and evaluate the Defendant.

Respectfully submitted,

KATHERINE FERNANDEZ RUNDLE
STATE ATTORNEY

BY: /s/Jonathan D. Borst
Assistant State Attorney
Florida Bar #85739

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and exact copy of the above was furnished to the defense on this 16th day of June, 2025.

/s/ Jonathan D. Borst
Assistant State Attorney