

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v.

KIMBERLY M. GARDNER,
Defendant.

AGREEMENT FOR PRE-CHARGE DIVERSION

It appearing that you are reported to have committed a violation of Title 18, United States Code, Section 666, in that:

On August 30, 2022, the Supreme Court of Missouri, in Case Number SC99645, issued its Disciplinary Order against Kimberly Gardner. The Court's Order taxed a fee of \$750.00 plus costs of \$4,254.33 for a total of \$5,004.33 against Kimberly Gardner in her personal capacity as an attorney. From approximately November 1, 2022 through April 26, 2023, Kimberly Gardner, in her position as Circuit Attorney, directed employees of the St. Louis Circuit Attorney's Office to issue checks to her from public funds held in the Circuit Attorney's Office Contingent Fund Account as reimbursement for payments she made to the Supreme Court of Missouri of her personally assessed fee and costs in Case Number SC99645. The Circuit Attorney's Office Contingent Fund is funded by the Treasurer's Office for the City of St. Louis from City of St. Louis funds. During the period November 1, 2022 through October 31, 2023, the City of St. Louis received federal program funds in excess of \$10,000.00. Section 56.530 of the Missouri Revised Statutes governs the Circuit Attorney's Office Contingent Fund. Per the Statute, the Contingent Fund is to be used for "...generally such expenses as [the Circuit Attorney] may be put to in the proper and vigorous prosecution of the duties of [her] office." The total amount of funds diverted to Kimberly Gardner from the Circuit Attorney's Office Contingent Fund Account was \$5,004.33, and such funds were deposited into her personal bank account and used for her personal expenses unrelated to her job duties and the operations of the Circuit Attorney's Office. Kimberly Gardner was not entitled under the law to that additional compensation:

Upon accepting responsibility for your behavior and by your signature on this Agreement, it appearing after an investigation of the offense, and your background, that the interest of the United States and your own interest and the interest of justice will be served by the following procedure, therefore:

On authority of the Attorney General of the United States, by Saylor A. Fleming, United States Attorney for the Eastern District of Missouri, prosecution in this District for the offense shall be deferred for a period of eighteen (18) months from this date, provided you abide by the following conditions and the requirements of the program set out below. The government will not object to an early termination of the pre-charge diversion period if it is recommended by your pretrial services officer.

Should you violate the conditions of this Agreement, the United States Attorney may revoke or modify any conditions of this pre-charge diversion program. The United States Attorney may release you from supervision at any time. The United States Attorney may at any time within the period of your supervision re-initiate prosecution for this offense should you violate the conditions of this supervision. In this case she will furnish you with notice specifying the conditions of this Agreement which you have violated.

If, upon completion of your period of supervision, a report is received to the effect that you have complied with all the rules, regulations and conditions above-mentioned, no criminal prosecution for the offense set out above will be instituted in this District, and any indictment or information will be discharged.

This agreement and all related documents may be released by the U.S. Attorney's Office upon request. You hereby waive all compliance requirements of the Privacy Act of 1974 [Title 5, United States Code, Section 552(a)] with regard to the above-described offense. This agreement may also be used for impeachment purposes in connection with any prosecution of the above-described offense.

You are aware that Rule 48(b) of the Federal Rules of Criminal Procedure provides that the Court may dismiss an indictment, information or complaint for unnecessary delay in presenting a charge to the Grand Jury, filing an information or in bringing a defendant to trial. You hereby request that the United States Attorney for the Eastern District of Missouri defer any prosecution of you for violation of Title 18, United States Code, Section 666, for the period of eighteen (18) months. To induce such deferral of prosecution, you agree and consent that any delay from the date of this Agreement to the date of the initiation of the prosecution, as provided for in the terms expressed herein, shall be deemed to be a necessary delay at your request and you waive any defense to such prosecution on the ground that such delay operated to deny your rights under Rule 48(b) of the Federal Rules of Criminal Procedure or to bar the prosecution by reason of the running of the statute of limitations for a period of eighteen (18) months, which is the period of this Agreement.

You understand that any restitution that may remain at the conclusion of the supervision period is not subject to discharge in bankruptcy.

CONDITIONS OF PRE-CHARGE DIVERSION

- (1) You shall not violate any law (federal, state or local).
- (2) You shall report to your Pretrial Services Officer as directed and report immediately any change in residence.

(3) You shall make a complete and truthful written report (on a form provided for that purpose) to your Pretrial Services Officer between the first and third day of each month, and on the final day of pretrial diversion supervision, or as directed.

(4) You shall follow the instructions of the Pretrial Services Officer.

SPECIAL CONDITIONS OF PRE-CHARGE DIVERSION

(1) You shall make restitution in an amount of \$5,004.33 to the St. Louis Circuit Attorney's Office Contingent Fund.

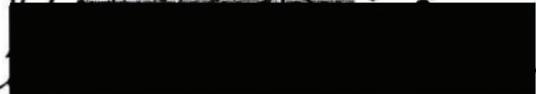
You hereby state that the above has been read and explained to you. You understand the conditions of your pre-charge diversion and agree that you will comply.

SAYLER A. FLEMING
United States Attorney

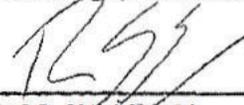


HAL GOLDSMITH
Assistant United States Attorney

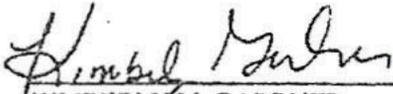
Date: July 23, 2024


Pretrial Services Officer

Date: October 4, 2024


RONALD SULLIVAN
Attorney for Divertee

July 24, 2023
DATE



KIMBERLY M. GARDNER
Divertee

July 23, 2024
DATE