State of Michigan
IN the Third Circuit Court

People of the State of Michigan
Plaintiff,
-vs-
Darrell Rashard Ewing
Defendant, / CASE No. 10-001495-02-FC
Honorable Keifer J. Cox

Motion To Disqualify Judge And, or, Denovo Review by Chief Judge

Now Comes the Defendant, Darrell R. Ewing, in pro-per, respectfully moving this inattentative Court to recuse itself from the case, This motion is being filled on the "Appearance of impropriety" numerous "due process infringments" "Actual bias/ Prejudice," and pursuant to "MCR 2.003(C)(1)(A)(B) And (E), as well as Caselaw and the following reasons:

Argument:

1.) Good Cause or timely Acceptance of this motion should be found, As on November 28, 2023, Mr. Ewing Learnt of this Courts previous employment at the Wayne County Prosecutors office, ("WCPO") and his close friendship with those in supervisory roles, as well As those in the rank in file in the WCPO. More,

ON 12/1/23, the Court Showed Actual bias and Prejudice, and Clear inattentiveness/legal incompetence.

2.) Upon information, Mr. Ewing recently came Abreast of this young, vibrant and career driven Courts Impressionable close friendship with Everyone in the WCPO — from Jon Wojtala, ("Who the Court named dropped itself!" See FC, 10/10/23, 69 "and that would be Mr. Wojtala") William Lawrence, and on up to Kym Worthy, relationships built while working under the said tutelage, including Kam Towns while assigned to "The Community Prosecution Unit."

3.) Caselaw holds, "A trial judge is presumed to be unbiased and the moving for disqualification bears the burden of proving that the motion is justified." People v Houston, 179 Mich App 753, 756 (1989) MCR 2.003(B).

4.) Paramount to this filing, MCR 2.003(C)(1)(B) provides for disqualification on the basis of a serious risk of actual bias Affecting A party's due process rights, As:

> "Due process requires that an unbiased and impartial decision maker, hear and decide a case."

See; Kern v Kern-Kaskela, 320 Mich App 212, 231 (2017); People v NASSAR, 2020 Mich App Lexis 8639, (*11) (2020)

The risk of serious actual bias showed, when "the Court whose not even A year out of the prosecution office, AND whose built close relationships while their, erroneously As will be shown, Arbitrarily denied numerous motions. The motions concerned egregious due process violations Against the WCPO."

Weigh, the Court found:

A.) "Adrienne Jackson vehicle registration WASNT suppressed, "As the defense knew of her AND subpoenaed her for trial." However, the record shows, Ewings previous Attorney, David Cripps, never located, interviewed, had any information on, or subpoenaed her for trial. IN fact, Cripps Argued to this Courts predecessor,

"Your honor, she would be newly discovered to me. I have never seen this person... I have made great deal Attempts through my private

Investigator to locate Adrienne Jackson --- Sir I have never been able to take a statement from her." see (MH, 12/2/10, 8-9)

Two months prior at the start of trial when Otis Culpepper moved to Add her to the witness list on the behalf of Searcy, David Cripps noted.

"the witness statement I received from the government redacted every single bit of information, Address, phone number, date of birth, Social Security number, just giving me a NAME And so that's been handcuffing the defense to a degree in finding this witness." (TT, 10/25/10, 8) (Exhibit A)

Yet, the Court desultory found "Adrienne Jackson" was not suppressed. Sadly, she was from the defense, as the record supports. More, the Court never Addressed "Adrienne Jackons Exculpatory/ Exonerating vehicle registration" buried. Even the federally produced witness Christopher Richardson, who the Court hung its hat on, taking the unsound position of the state, testified, "No, I dont know Adrienne's last name" (TT, 10/26/10, 200)

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(Exhibit B) Adrienne's Ex-boyfriend, and the states witness, Phillip Reed echoed Richardson.

"I dont remeber Adriennes last name."

Hence, She was indeed suppressed. More pointedly the Exonerating vehicle report filed on 4/30/10 was. Towns informed the Attorney Grievance Commission As Cripps was just briefed, "Only Adriennes heavily redacted report was found in her original trial file/ Bankers box." see (Exhibit C) Not the exonerating vehicle report. Binding case law holds, "there is no rule A prosecutor must hide, A defendant seek." People v Chenault, 495 Mich, 142, 155 (2014)

B) ON 12/1/23, Cox found that Gaskin statement wasn't suppressed. However, AP Sawyer At the end of the hearing, provided the Defense a report dated 11/6/10, that shows Kam Towns in the midst of trial, indeed received his statement. This shows it was not disclosed during pretrial which started the month prior, And sadly Towns never halted the trial and provided it to the defense. The Court unfamiliar with Brady ruled "Gaskins 2017 Affidavit is irrelevant to the inquiry." However the case, the law states:

"A Brady violation CAN exist if the Defendant CAN demonstrate that the information would of led to the discovery of Additional Evidence." People v Swain, 2014 Mich App Lexis 2438, [¶ 14-15]

The Affidavit established/showed the additional evidence that would of been disclosed. (EXHIBIT(J))

C) Thirdly, the Court ruled the state has not suppressed, "A first and Immediate selection of photo number two as the shooter", or, that "Raymond Love was told he selected the correct person." The Court INAttentiveness or either its bias and prejudice led the Court to find "this didnt occur." Troublingly the record supports Love swore to these facts. (TT, 11/3/10, 88) (TT, 11/3/10, 17-18) (Exhibit D) This caused the Court to erroneously find probable cause on the Franks motion and deny the request for a Wade hearing.

2021 Renewed Proceedings Brady violations "INAttentiveness And bias comments towards Ening:

The Court ruled AND slammed the Defendant while doing so, holding:

"Ewing has lost credibility here in respect to his arguments, as the things he is specifically saying he didn't have pretrial 2010, were used AND Argued About, were found in the transcripts of the 2010 Jury trial."

Evidently the Court didn't even read Mr. Ewings filings AND just adopted the State positions, labeling Ewing a liar. Sadly, Ewing argued specifically that the facebook photos, Christopher Richardson federal disclosure AND the exculpatory phone subscriber info has not been disclosed in these renewed proceedings. Indeed, these suppressions violate Brady, (see Defense Brief motion page 37 ¶ D)

D) To date, in these renewed proceedings, the state has not turned over any of the evidence officer Williams retrieved from facebook — The exculpatory photos which bare witness Ewing didn't have and couldn't even grow A goatee or beard.

Exonerating facts, as Love swore the Shooter had the said. ON record At the 12/1/23, hearing, Standby Counsel and An officer of the Court, Christopher Sinclair, stood and informed the Court, "the state has not disclosed one piece of Facebook material." Incredibly, the Court still never ordered Any disclosure, and unbelievably found "Ewing has access to his own webpage." ("Defense Brady motion, page 39")

E.) Ewing argued the state is currently suppressing All Exculpatory phone subscriber info related to 586-944-4502. Sinclair Also informed the Court on 12/1/23 this info is being suppressed. (Defense Brady motion, pg 41)

F.) Ewing Argued on page (37) of his Brady motion that the state was suppressing Christopher Richardson's federal disclosure in this "pretrial posture for retrial." Sinclair second this violation.

Whereto, the Courts inattentiveness and bias led the Court to erroneously scold Ewing And his credibility on record. Ewing was never Arguing these materials wasn't disclosed

back in 2010 — points this Court well knew! Moreover, the Court took the troubling position this material couldn't be suppressed, "As it was disclosed to Mr. Cripps in 2010." David Cripps is not the Attorney of record to day. Discovery disclosed to counsel decades ago, could never meet the MCR 6.201 threshold. Additionally, Ewings been immurred for nearly a decade and a half now, and the record shows, that Ewings facebook page has been closed prior to trial in 2010. See (Exhibit E) So, to and Ewing has access to this info is totally unsound.

5.) Caselaw has signaled, "If the record provides an indication that the judge failed to pay close Attention/ shows inattentiveness/ legal incompetence, or, Any other Impropriety, A Judge can be removed." People v Copeland, 2022 Mich App Lexis 2421, (¶17-22) (Exhibit F) The Courts inattentiveness as just outlined caused the Court to erroneously deny the request for a Wade Hearing, Franks Hearing and Brady motion. The record support it was an "unduly suggestive" Identification procedure and that someone other then the Defendant was selected as a Shooter. Keifer Cot, has showed he should recuse himself.

6.) Caselaw also signals, A judge should be disqualified, "When viewed in the context of the entire hearing, it creates a reasonable perception, that the judges intergity, impartiality or competence was impaired." Nassar at (* 24, 30) Here the Courts intergity and impartiality shows. He ruled Love never selected photo number two first as the shooter, despite record support, and that he never swore to the fact, he was told he picked the correct photo. For God sakes, the impairment of the intergity of the court gets no clear. Disqualification is called for/mandated.

MCR 2.003 (C) (1) (E):

7.) Mich. Ct. R. 2.003 (C) (1) (E) holds, Disqualification of A Judge is warranted,

> "When the judge was a partner of A party, Attorney for A party, or member of A Law firm representing A party within the preceeding two years."

At bar, the Court last year was AN Assistant Prosecuter of the WCPO, According to the Court rule itself and in the interest of justice

And the "Appearance of impropriety" the Court should recuse itself. The serious risk of actual bias is clear here. Keifer Cox in a high profile case, cant shame/rule Against his former boss, Colleagues and friends.

8.) Just recently, the Michigan Court of Appeals pronounced:

> "A judges close friendships can pose A serious risk of Actual bias, such that the judge is disqualified from presiding over the case."

see People v Kowalski, 2023 Mich App Lexis 7932 (*12) (November 2, 2023) (Exhibit F)

Here, Ewing has learnt Keifer Cox has close friendships with those in the WCPO. Thus, the Court should Adopt a finding of Kowalski and recuse itself from the case.

Disqualification on Due Process Grounds/Prejudice

9.) "Due process principles require disqualification Absent A showing of Actual bias or prejudice in situations where experience teaches that the probability of Actual bias on the part

of the judge or decision maker is too high to be Constitutionally tolerable." see In re MKK, 286 Mich App 546, 567 (2009); Cain v Dep't of Corr., 451 Mich 470, 498-499 (1996) ("our system of law always endeavored to prevent even the probability of unfairness.")

10) The Cain Court specifically highlighted the fact that "the example cited in Crampton involved a situation in which a trial judge has been insulted, slandered and vilified by a defendant representing himself. Finding the trial judge should not adjudicate further proceedings." Id at *500. Before the bench, Ewing is a self-represented Defendant, and in response to the Court's bias, inattentiveness and hampering of the defense insulted and called the Court out during televised proceedings. Hence, pursuant to Cain the Court should adopt a finding recusing/disqualifying itself.

Actual Bias/Prejudice to the Defense

11) Keifer Cox has shown actual bias, Whereto, After AP Sawyer responded on a motion to Compel, "NO" I'm not aware of any actions Prosecuter Worthy and numerous

Other governmental officials took, After receiving Tyree Washingtons letter confessing to the Crime And pleading for Aid to Exonerate the Defendant. (FC, 10/10/22, 61-64) Mr. Ewing solely in efforts to learn more in preparation for trial, filed A motion to Make the Said witnesses Available for An interview pursuant to MCR 6.201 (A)(1) see (Exhibit 6) This motion despite cut off dates, was filled in Accordance with MCR 2.119(C)(1) And its "good-cause" exception. Yet, the Court filled with Bias, prejudiced the defense by flatly denying the motion... And without Any Argument

12) Binding Authority Cautioned:

"The effective operation of our criminal justice system depends on the discovery of truth."
See People v Yost, 483 mich 856, 859 (2009)

Still, Keifer Cox prevented the discovery of truth And Answers to questions. The Defense would say, just As Anyone else, Cox did so to shield its former Boss And friends. Any reasonable mind would Agree, "Who did what, when, and

where is key "IN preparation for trial.

13.) Mr. Ewing Also filed two separate Motions to Compel. Mind you, AP SAWyer informed the Court "I CAN certainly turn over the contents of the LEIN." (FC 10/10/23, 15) However, SAWyer ON the following day, only turned over Criminal history info, not the entire LEIN Content of his witnesses ON file. More, Keifer Cox instructed Ewing A few times, "If you want to look into that AND get A little more specific or particularized request, with respect to THAT, I'd be happy to review that if you want to Address it At our next hearing." (FC 33, 69) Seeing the gesture of the Court, Ewing IN Accordance with MCR 2.119(L)(1) filed A more specific AND particularized request. These request Needs must Attention, AS Chief of Appeals, JON Wojtala Argued five times to the Michigan Supreme Court, that the defense prior to the 2010 trial, WAS IN possession of AN Exculpatory Statement made to FBI Agents, Admitting responsibility AND exculpating Ewing. To date, this Statement hasn't been produced. Rather than deal with these issues, the Court flatly rejected these motions AS untimely. HAL to be done AS AN Act to protect its former colleagues.

14.) Cox After the defense on 10/10/23 moved the Court for AN order requiring the prosecution to turn over AN index of All discovery, the Court held, "Im not going to order that At this time." (FC, 10/10/23, 67) Knowing the State is still holding back AND Sandbagging the defense Ewing for "good-cause" filed AN Additional Critical motion Aguring the Court would figure "Now is the time." Recall, the Court stated "The Court is Competent that it can handle ANY problems with the discovery." Id 9. To date, the Court has Showed it is not competent As it thought. Ponder, AN officer of the Court, Christopher Sinclair seconded the present suppressions ON 10/1/23 IN front of the Court. INCREDIBLY the Court still denied the motion to dismiss due to the discovery violations AND failed to stick to it vow to "handle ANY problems with discovery" Id [*9] The inAction of keiter Cox has prejudiced (handicapped the defense

Misconduct/Fraud by the Court

15.) The Court As outlined in the Attach Affidavit, IN AN Obvious MANNER Altered the WARRANT Recall. This was done in efforts

to deny the motion to dismiss, for a failure to Arraign, following an exhaustive research to find the verbatim record of the procedure, that was suppose to be kept in event AN Arraignment took place. See MCR 6.104(F) the Bond History section And Date set box Noting "JAN 12, 2010" is Clearly distinguishable from Magistrate's Barthwell's "JAN 12 2010" stamp. More, the Remand" insertion is plainly plagiarized. Lastly the Name "Cripps" is wrote in as the defense Attorney over Otis Culpepper's Name And legible bar number "23520." Do note: David Cripps wasn't consulted until January 14, 2010, the same day he filed AN Appearance, Meaning, he couldn't of been present at A proceeding one in Michigan, never has AN Attorney present at. This misconduct Alone should disqualify Keifer Cox.

Trampling upon Ewings Due Process rights:

16) ON 10/10/23, Keifer Cox denied Ewings Motion for A separate trial in the case. See (FC, 10/10/23, 78-80) Still, the Court is holding separate proceedings, preventing the parties from being Abreast of eachother

Arguments AND the prosecution positions. Conducting the proceedings this way, is a showing of actual bias and prejudice to the defense.

Prejudice

17.) ON 12/1/23, Keifer Cox prejudiced the defense and its preparation for trial, finding it won't rule on the motion IN limine's until Admist trial. Injurious to the presentation of the trial for a self-represented Defendant. Ponder, it is well known:

> "Making Evidentiary rulings on motions in limine Ahead of trial, the court facilitates wise preparation by the parties and prepare a smooth path for trial."

see Ansari v Jimenez, 2023 US Dist LEXIS 106303 (E.D Mich, 2023)

Still, the Court in efforts to trial Ambush the Defendant put off Any rulings. This Act was solely out of Actual bias And Allegiance to the Courts former employer. Completely handicapping the defense; Prejudicing the Defence

Relief Requested

Wherefore, Mr. Ewing pleads for the Court on the "Appearance of Impropriety" Alone recuse itself, finding "the probability of Actual bias on the Court is too high to be Constitutionally tolerable." Alternatively, Ewing asks for this motion to be forwarded to the Chief Judge for a De Novo review. MCR 2.003(C); See Also People v Agnew, 2021 Mich App Lexis 3016, [*3] ("ordering the disqualification of A 3rd Circuit Court Judge on the "Appearance of Impropriety Alone.")

Respectfully, Humbly & Earnestly Sought,

Wrongfully Convicted
Now Again Charged

/s/ [redacted] Date: 12/4/23

Proof of Service

I, Darrell Rashard Ewing, certify/declare, this Motion was served on All parties. 28 USC § 1746

/s/ [redacted] Date: 12/4/23
Declarer

EXHIBIT A

PROVIDES:

[MR. DARRELL RASHARD EWING

AFFIDAVIT]

— Affidavit of Darrell R. Ewing —

I, Darrell Rashard Ewing, declare under the federal penalty of perjury under 28 USC §1746, that All of the succeeding is true AND correct:

1.) ON November 28, 2023, the Affiant learned that Keiter J. Cox, in the preceeding year or so, WAS AN Assistant Prosecutor of the Wayne County Prosecutor office

2.) ON the said date, the declarant Also learned, Keiter J. Cox built relationships with those in the WCPO, including Kym Worthy, Jon Wojtala, William Lawerence AND A host of other prosecutors in supervisory roles AND the rank on file. Including, AND disturbingly, Kam Towns.

4.) MCR 2.003(C)(1)(E) States A judge should be disqualified if he was A member of A party in the preceeding two years

5.) IN CASES AS At bar, with egregious due process violations AGAINST the office Keiter Cox was just A party of, the

"Appearance of impropriety" alone mandates Cox recuse himself. -- he cant be impartial.

6.) ON 12/1/23, Keifer Cox seated with this unknown Actual bias AND "inattentiveness" to these serious matters, overlooked the record support submitted that bare witness Raymond Love was told by DPD he "selected the correct photo" during A photo-Array AND indeed made "A first and Immediate selection of photo number two as the shooter", in this case. See (Exhibit D) This inattentiveness caused the Court to UNfairly AND erroneously deny Ewings motions to dismiss due to Brady AND his requests for A Wade AND Franks hearing.

7.) ON 12/1/23, Keifer Cox committed misconduct in efforts to deny Ewings motion to dismiss due to A failure to Arraignment in District Court. TO do this, Cox Altered the WARRAND recall, that States:

"BOND History AND A Section

that States Date set as "JAN 12 2010" and an Amount written as "Remand" the date stamps are totally different from Barthwell's stamp. see (Exhibit H)

In efforts to pad the record, the Court wrote in "Cripps" As the Defense Attorney when it clear shows in a typed fashion under this insertion "8886 Attorney UNR" and "Culpepper Name 23520". Sad, As David Cripps was not consulted, retained and filed his appearance DAR 1/14/10. see (Exhibit I) Ewing was never Arraigned, All of the Additionally Asserted in "Exam held in part, was done in further efforts to distort the document.

8) The Courts bias and inattentiveness caused the Court to unfairly slam Ewings credibility And label him a liar concerning 2021 Brady violations still occurring in these renewed pretrial proceedings. The Court found Ewings Couldn't of had these materials suppressed in 2010, As the transcripts and his Arguments shows he had it back then. This Attack ON Ewings character came from the Courts inattentiveness, As Ewings argument was the state in these renewed proceedings is suppressing Christopher Richardsons / Gaskins

federal Disclosure, Exculpatory phone subscriber info, Exonerating Facebook material/photos, AND Raymond Lowes first selection of photo NUMBER two.

9.) The Court denied separate trials ON 10/10/23, yet the Court in violation of Due process is holding secret AND separate proceedings concerning the Defendants in the case. Troubling, As Ewing is self-represented AND can't obtain filings of co-counsel, nor hear the positions of the State on ANY filings in preparation for trial.

10.) ON 12/1/23, Keifer J. Cox, despite previous remarks to file/bring up any more Specific requests ON A motion to compel back ON 10/10/23, filled with Actual bias Arbitrarily flatly rejected motions that were more specific ON issues Already Addressed.

11.) ON 12/1/23, the Courts bailiff, Deputy Salbota As he WAS bringing Ewing over for Court Joked, " WHATS IN those boxes ARE not gONNA get you released today, the Court said yes

filed more motions, so he's gonna just deny them All." Unbelievably, that is exactly what occurred, so the Court is Not only in bed with the WCPO, he's discussing rulings AND the CASE with his bailiffs.

12.) The Court on 12/1/23, lacking legal Competence And Attention, failed to Address the specific issue of "Whether Adrienne Allen-Jackson Exonerating Vehicle Registration report WAS Suppressed" Filled with Actual bias AND its prosecutor Cap still ON, Keifer Cox subverted justice finding "Adrienne Jackson WAS not Suppressed She was located by the defense, subpoenaed AND refused to testify." Holdings that Are irrelevant to whether the State Suppressed Jacksons exonerating LEIN/vehicle registration report, AND the direct linkage of the Alternative Suspects to the murder of J.B Watson. Our Michigan Supreme Court in People v Elkhoja, 467 Mich 916 (2003) Adopted the dissent in People v Elkhoja, 251 Mich App 417, 437 (2002) that holds:

"The prosecutor has AN obligation

to turn over exculpatory LEIN information in its file, but are Not required to seek out such information."

Hence, Binding Stare Decisis was suppose to move the Court to find a Brady violation, seeing the state had the exculpatory vehicle information in its file since April 30, 2010. Troubling, As Keifer Cox found in response to the 10/10/23 motion to Compel, that "the state doesn't know either who had the exculpatory vehicle report in 2010." see (FC, 10/10/23, 31) The Courts lacking legal competence and inattentiveness to its own findings, caused the Court to Not only deny the Brady motion for Dismissal, but also the motion to Suppress the Reading of Jendayi Loves testimony due to the subsequent confrontation issue. Case law has instructed, " if the prosecution has infringed on a Defendants opportunity to cross-exam a witness, there is a confrontation issue." People v Jakee, 2023 Mich App Lexis 6976, [& cit]; United States v Mallory, 902 F.3d 584, 592 (6th Cir 2018) ("confrontation issue where can show

New AND significant line of cross-exam that was not at least touched upon." The defense have pictures of JACKSON'S 1995 Aurora, that correlates with the description of the car the cops described AND named As the getaway vehicle. This info was suppressed, is significant, And the concealment now has prevented the defense from Asking Love:

"Is it possible this was the Automobile you saw the Shooter enter?"

Everyone knows a resounding "yes" will/would of led to a "not-guilty" verdict. Yet, Keifer Cox Actual bias And conflicting interests twisted this entire Argument And minimized it to "Adrienne JACKSON WASN'T Suppressed. A recusal is called forthherein. Ewing CAN never receive justice or A fair ruling from the recently former prosecutor sent to sit on the case.

13.) Mr. Ewing A self-represented defendant file Numerous motion in Cimines that

deals with issues like, the invasion of the province of the jury AND other rogue factors. This was done As it is Well known:

"Making evidentiary rulings on motion In limine Ahead of trial, the court facilitates wise preparation by the parties And prepare A smooth path for trial."

see Ansari v Jimenez, 2023 US Dist Lexis 106303, (*3) (E.D Mich, June 20, 2023)

Showing Actual bias to A pro-se litigant who is Abreast of the states case and errors Made in trial one, the court has took the stance "Ewing has filed An unprecedent Amount of motions" see (FC, 10/10/23, 5) Notably the court has, not found one motion frivolous, Nor has the prosecution labeled one As such. The delay to A Midst trial is prejudicing the defense And its preparation. More, you Cant un-ring the bell on these Alarming filings. Thus, the court is Aiding its former Colleagues ruling, "Well rule on them At trial."

Declarant further sayeth not,
Wrongfully Convicted
Now Again Charged

/s/ D. R. E. Date: 12/4/23

I, Darrell R. Ewing, declare pursuant to 28 USC § 1746, that if called to court, he will testify to All of the Above in open Court and subject to the penalty of perjury

28 USC § 1746

/s/ D. R. E. Date: 12/4/23
Declarer