

IN THE LONOKE COUNTY CIRCUIT COURT OF ARKANSAS

HEATH STOCKS

PETITIONER

VS

CASE NO. 97-9

STATE OF ARKANSAS

RESPONDENT

REPLY TO STATE'S RESONSE TO THE

MOTION FOR THE LONOKE COUNTY PROSECUTOR'S OFFICE TO RECUSE

Comes now, the Petitioner, Heath Stocks, moving this Honorable Court to grant his Motion for the Lonoke County Prosecutor's Office to Recuse; and does so state;

1. Stocks filed a Motion for the Lonoke County Prosecutor's Office to Recuse.
2. The State has filed a response to Stock's Motion for the Lonoke County Prosecution Office to Recuse.
3. Stocks set forth in his Motion for Recusal that;
 - A. The petitioner Heath Stocks filed his motion for the issuance of the writ of error coram nobis on September 20, 2017 and subsequently amended this petition, that was filed on September 29, 2017 to include that Stocks was further moving for this court to consider the issuance of the writ of audita querela and other relief based upon the facts in the petition.
 - B. On October 27, 2017 the State filed an ambiguous response asking this court to dismiss the writ of error coram nobis and the writ of audita querela without conducting a hearing.
 - C. Former Lonoke County Prosecutor Larry Cook and Deputy Prosecuting Attorney Ben Hooper have a close personal relationship. (See Petitioner's Ex. No. 75; Attached). Cook's multiple *Brady* violations and prosecutorial misconduct in covering up sexual abuse, failing to

file rape charges against Charles Walls III, and other prosecutorial misconduct as outlined in Stocks's writ of error coram nobis petition are now in controversy.

D. Deputy Prosecuting Ben Hooper worked with Larry Cook and the information sealed by this Court in the writ of error coram nobis petition shows that the entire Lonoke County Prosecutor Office had to recuse from judicial matters concerning Charles Walls III. (*See Stocks Writ of Error Coram Nobis ; Ex. No. 22; Letter from Special Prosecutor Betty Dickey, page 298; Ex. No. 45. Prosecutor's Recusal from Walls Trial; page 471-472*)

E. Ben Hooper's ties to Larry Cook creates uncertainty in the integrity of the Lonoke County Prosecutor's Office and this Court may grant this motion to ensure that there is no adverse conflict of interest or miscarriage of justice committed by Deputy Prosecuting Attorney Ben Hooper to protect Larry Cook, or file criminal charges against Cook for actions committed in covering up for the rape of Stocks by Charles Walls III, Charles Walls III ordering Stocks to help murder the Stocks family, and the sexual abuse of Stocks; in behalf of former judge Charles Walls II and Charles Walls III.

F. Deputy Prosecutor Ben Hooper may be called as a material witness as to the conduct of former Prosecutor Larry Cook, while Cook was Lonoke County Prosecutor. Hooper will be called to testify whether he was aware of other instances of prosecutorial misconduct by Larry Cook.

4. In the State's Response, the State has failed to set forth any convincing argument as to why the Lonoke County Prosecutor's Office should not recuse from the case. Instead the State goes into an ill-fated discourse, that evidence of a close personal relationship with former Prosecutor Larry Cook does not set in controversy the integrity of the Lonoke County Prosecutor Office, when in fact it was the Lonoke County Prosecutor Office upon its own motion chose to

recuse from cases involving Charles Walls III because of the close relationship of Judge Charles Walls II and the Lonoke County Prosecutor's Office. [*Petitioner's Ex No.45, Letter of Recusal from Prosecutor Larry Cook; page 471-472; Writ of Error Coram Nobis*].

Stocks set forth Deputy Prosecutor Ben Hooper's relationship with former Prosecutor Larry Cook, who is now the current Public Defender. There is a question of integrity and the appearance of impropriety by the Lonoke County Prosecutor's Office because of a clearly established inability of the Lonoke County Prosecutor's Office to prosecute/represent the citizens impartially in cases involving Charles Walls III.

The key factor is that the Lonoke County Prosecutor's Office by its own motion chose to disqualify itself from cases involving Charles Walls III, and this cannot be taken lightly. [*Petitioner's Ex No.45, Letter of Recusal from Prosecutor Larry Cook; page 471-472; Writ of Error Coram Nobis*].

This Court should grant the Motion for Recusal of the Lonoke County Prosecutor's Office because of the failure of that office to prosecute Charles Walls III for his role in the Stocks family murders. A motion to recuse a prosecutor's office may be granted whenever the circumstances of a case evidence a reasonable possibility that the prosecutor's office may not exercise its discretionary function in an evenhanded manner. *Packer v Superior Court (2014) 60 Cal. 4th 695, 709, 181 Cal. Rptr. 3d 41, 339 P. 3d 329*. By not charging Charles Walls III with Conspiracy to Commit Capital Felony Murder or Capital Felony Murder shows that in light of the evidence, the Lonoke County Prosecutor's Office has refused to file charges against Charles Walls III. [*Petitioner's Ex No. 26; Letter from Attorney Morgan Welch Addressed to Prosecutor Larry Cook; page 345-346*]; [*Petitioner's Ex. No. 71; Walls Felony Information; page 554-557*]; [*Petitioner's Ex. No. 45; Prosecutor Cook's Letter of Recusal; page 471-472*].

A prosecutor's obligation to represent the People and to that end, to exercise independent judgment in deciding to prosecute or refrain from prosecution, cannot be fulfilled when the prosecutor undertakes to represent the interests of former prosecutor Larry Cook. *Jeffryes v Vance*, 58 Misc. 3d 185, (2017)

Stocks need not show prejudice as a requirement to provide a drastic remedy for actions that jeopardizes society's confidence in the justice system as a whole, such as disqualifying the Lonoke County Prosecutor's Office. The action of disqualifying the Lonoke County Prosecutor's Office would be the correct administration of justice, and provide Stocks with equal protection and due process of law, as applicable to the States through the Fourteenth Amendment of the United States Constitution.

Moreover, the recusal of the Lonoke County Prosecutor's Office in this action should be granted because Stocks has shown significantly that this prosecutor's office prior investigative or prosecutorial conduct will be a material issue at trial. *People v Fountain*, 55 Misc. 3d 211 (2016); *Abelove v Cuomo*, 57 Misc. 3d 668 (2017).

The response by Deputy Prosecutor Ben Hooper shows his loyalty to former prosecutor Larry Cook, and the clear prosecutorial misconduct of Larry Cook, and this loyalty to Cook by Hooper constitutes a conflict of interest that supports recusal. *People v Dekraai*, 5 Cal. App. 5th 1110 (2016). Stocks is entitled to a fair trial and his Sixth Amendment U. S. C. A. rights and due process of law, protects the integrity of these legal proceedings, and society at large. *State v ex rel. Healea v Tucker*, 2017 WL 2451869 (2017).

For the above stated reasons the Motion for Recusal of the Lonoke County Prosecutor's Office should be granted.

WHEREFORE, Stocks prays that his Motion for Recusal of the Lonoke County Prosecutor Office be granted.

Respectfully submitted,
Heath Stocks
Heath Stocks

VERIFICATION OF SIGNATURE

I, Heath Stocks do swear and attest that I am filing this Reply to the State's Response to the Motion for Recusal of the Lonoke County Prosecutor Office, and the facts asserted herein are to the best of my knowledge and are not done in bad faith.

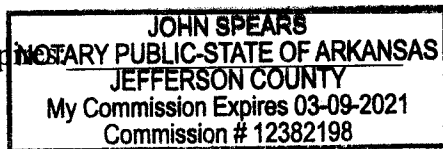
/s/ *Heath Stocks*
Heath Stocks

State of Arkansas
County of Jefferson

SUBSCRIBED AND SWORN TO BEFORE me a Notary Public on this 3rd day of Jan 2018.

/s/ *John Spears*
Notary Public

My Commission Expires



CERTIFICATE OF SERVICE

I, Heath Stocks hereby certify that I have serviced an exact copy of the foregoing to the Prosecuting Attorney Chuck Graham, Courthouse, 301 N. Center St., Ste. 301, Lonoke AR 72086-2892 on this 3rd day of January 2018 by U. S. Mail postage prepaid.

Heath Stocks
Heath Stocks

Heath Stacks ADC # 110429

Maximum Security Unit

2501 State Farm Road

Tucker, Ar 72168-8713

MAXIMUM

SECURITY

UNIT

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Lonoke, AR 72086-2892

Legal Mail