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News Release

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Legal Experts Agree: New Judge Needed for Stapley Case *Retired Supreme Court Justice, Other Experts Support Prosecutor's Request*

Citing the testimony of four expert witnesses who have concluded the assigned judge should recuse himself, the County Attorney's Office filed today what is likely to be its final motion with the Maricopa County Superior Court seeking a change of judge in the criminal case against Supervisor Don Stapley. In its motion, the State again asks retired Judge Kenneth Fields to recuse himself. If he still declines, the State will prepare for the mandatory hearing to be held regarding the alleged bias. Should the State fail in these efforts to obtain a new and impartial judge, the County Attorney's Office will appeal the matter to higher courts.

The new motion cites the affidavits of four esteemed experts in the law regarding the appointment of retired Judge Kenneth Fields to the Stapley case. They are: Justice William Riggs, a former Justice of the Oregon Supreme Court, who has 29 years experience as a jurist; Judge Barry Howard, a retired judge from Oakland County, Michigan, where he served as the chief judge for a county of approximately one million people in the Detroit area; Peter Jarvis, attorney and co-author of "The Law of Lawyering," arguably the most prestigious book on legal ethics currently in publication; and Michael Alan Schwartz, a former Chief Bar counsel for the State of Michigan and law professor.

They concluded that the rules of judicial ethics clearly require Judge Fields to recuse himself. Their comments included the following:

Justice Riggs: "His (Field's) willingness to speak out publicly against Thomas and his filing of a bar complaint are enough to require disqualification."

Judge Howard:

"Based on my experience as a judge, Judge Fields is disqualified from acting as a judge in the Stapley prosecution under the Code of Judicial Conduct, and should recuse himself."

Mr. Jarvis:

"In my opinion, a reasonable person would find both an appearance of impropriety and a lack of impartiality."

Prof. Schwartz:

“Accordingly, it is my opinion that Judge Fields should not be permitted to sit as a judge in this case, or any other case in which the County Attorney is an advocate.”

These experts reached these conclusions and submitted their affidavits even before a court employee, Robin Hoskins, came forward to disclose that she had personally reported Judge Fields’ bias towards the County Attorney’s Office to presiding criminal judge Anna Baca. Judge Baca nonetheless denied the State’s motion for a change of judge. She has denied the request even though the rules of criminal procedure clearly require a hearing before she can lawfully deny the motion. In addition, Judge Baca denied the request despite knowing from a court employee of Judge Fields’ bias—bias which she did not reveal to the State.

The State’s newest motion asks Judge Fields to reconsider his decision not to recuse himself, and asks the court for a second time to select a new judge through the normal random process. In a departure from this typical assignment procedure, Presiding Judge Barbara Rodriguez Mundell personally selected retired Judge Fields for the case. Judge Mundell has personally worked with Supervisor Stapley on numerous matters, including funding of the new county court tower.

Thomas stated, “Once again, the State asks only for a fair trial before a fair judge.”

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