

IN THE CIRCUIT COURT FOR
LAWRENCE COUNTY, TENNESSEE

STATE OF TENNESSEE,)
)
 Plaintiff,)
) Case No.33483
 v.)
) JUDGE RUSSELL PARKES
 Arthur J. Hirsch,)
)
 Accused.)
 _____/)

REQUEST TO TAKE MANDATORY JUDICIAL NOTICE
(Rule 201(d) and (f))

The accused requests this Court to please take mandatory judicial notice of the following facts pursuant to Rule 201(d) and (f):

LEGAL

1. **SPECIAL PROSECUTOR STATUS:** On March 31, 2016 TAMMY RETTIG (“MS. RETTIG”) from Tennessee 21st Judicial District was appointed as assistant district attorney general, pro tem in the above styled case by Judge Russell Parkes’ court order which she accepted.
2. **UNDER COURT’S AUTHORITY:** By accepting the above mentioned court ordered appointment as the state’s special prosecutor, MS. RETTIG was, and still is, under this Court’s authority.
3. **FAILURE TO APPEAR:** On May 2, 2016 special prosecutor, MS. RETTIG, failed to appear at the scheduled hearing ordered by this Court for a status hearing, plea offer matters and scheduling a trial date.
4. **NO REASON FOR NON-APPEARANCE:** There is no evidence that MS. RETTIG contacted the court clerk’s office by phone, text, email, or fax on May 2, 2016 giving a possible reason for her non-appearance.

5. **NO DOCUMENT ON FILE:** There is no evidence of record that MS. RETTIG has filed any document with the clerk's office bearing her signature after March 31, 2016 to date. **(ATTACHMENT A)**

6. **CONTEMPT:** MS. RETTIG's failure as state prosecutor, pro tem, to obey this Court's order to appear in court on May 2, 2016 for hearing without giving any notice of a justifiable reason for her non-appearance meets the definition of contempt.

Contempt. Contumacy; a willful disregard of the authority of a court of justice or legislative body or disobedience to its lawful orders. **Contempt of court** is committed by a person who does any act in willful contravention of its authority or dignity, or tending to impede or frustrate the administration of justice, or **by one who, being under the court's authority as a party to a proceeding therein, willfully disobeys its lawful orders or fails to comply with an undertaking which he has given.** Welch v. Barber, 52 Conn. 147, 52 Am. Rep. 567; Lyon v. Lyon, 21 Conn. 19S; Kissel v. Lewis, 27 Ind. App. 302, 61 N. E. 209; Yates v. Lansing, 9 Johns. (N. Y.) 395, 6 Am. Dec. 290; Stuart v. People, 4 111. 395; Gaudy v. State, 13 Neb. 445, 14 N. W. 143. Black's Law Dictionary, 2nd Edition.

Contempt of court. The act of demeaning the court, preventing justice administration, or disobeying a sentence of the court. It is criminal and can lead to fines or imprisonment. Black's 2nd Edition

7. **RESPECT OF PERSONS – A MORAL EVIL:** Respect of persons /partiality in judgment is a moral evil prohibited in the judges' oath of office. **(ATTACHMENT B)**

8. **MALUM IN SE CRIME:** Respect of persons in judgment is an absolute, unchanging, natural law which is inherently known to be wrong and evil in itself (*e.g.*, robbery, murder, kidnapping, etc.) and meets the category definition of a *malum in se* crime.

9. **CODE OF JUDICIAL CONDUCT:** Respect of persons / partiality / bias / prejudice is prohibited conduct in the Tennessee Code of Judicial Conduct.

RULE 1.2 Promoting Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and **impartiality of the judiciary**, and shall avoid impropriety and the appearance of impropriety.

RULE 2.2 Impartiality and Fairness

A judge shall uphold and apply the law, and shall perform all duties of judicial office **fairly and impartially.**

RULE 2.3 Bias, Prejudice, and Harassment

(A) A judge shall perform the duties of judicial office, including administrative duties, **without bias or prejudice.**

Comment

[1] **A judge who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute.**

[2] . . . **A judge must avoid conduct that may reasonably be perceived as prejudiced or biased.**

10. **NEUTRAL JUDGE:** The U.S. Supreme Court has held that defendants are entitled to have a neutral, impartial judge in the first instance.

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“Petitioner is entitled to a neutral and detached judge in the first instance.”

MORAL LAW

The accused requests this Court to please take mandatory judicial notice of the following facts of moral truths pursuant to Rule 201(d) and (f):

11. **TRUTH FROM SUPREME LAW:** Respect of persons is wrong, evil, a moral sin and is strictly forbidden by God himself, the Judge of all the earth, in His eternal Word:

“But if ye have respect to persons, ye commit sin, and are convinced of the law as transgressors.” James 2:9

“Ye shall not respect persons in judgment. . . for the judgment is God’s”
Deut. 1:17

“Ye shall do no unrighteousness in judgment: thou shalt not respect the person of the poor, nor honor the person of the mighty: but in righteousness shalt thou judge thy neighbor.” Lev. 19:15

“And said to the judges, Take heed what ye do: for ye judge not for man, but for the Lord, who is with you in the judgment. Wherefore now let the fear of the Lord be upon you; take heed and do it; for there is no iniquity with the Lord our God; **nor respect of persons,** nor taking of gifts.” 2 Chron. 19:6,7

“Thou shalt not wrest judgment: thou shalt not respect persons, neither take a gift: for a gift doth blind the eyes of the wise, and pervert the words of the righteous.”
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“For there is no respect of persons with God.” Rom. 2:11

“Of a fact I perceive that **God is no respecter of persons.**” Acts 10:34

“**Neither doth God respect any person.**” 2 Sam. 14:14

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“**It is not good to have respect of persons in judgment.**” Prov. 24:23

“But he that doeth wrong shall receive for the wrong which he hath done: and there is **no respect of persons.**” Col. 3:25

“Are ye not then **partial** in yourselves, and are become **judges of evil thoughts.**” James 2:4

“I charge thee before God, and the Lord Jesus Christ, . . . that thou observe these things **without preferring (prejudice) one before the other, doing nothing by partiality.**” 1 Tim. 5:21

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12. ADMINISTERING RIGHTEOUS JUSTICE:

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13. **ACCOUNTABILITY:** Everyone shall give account of himself to God.

“For it is written, As I live, saith the Lord, every knee shall bow to me, and every tongue shall confess to God. So then **every one of us shall give account of himself to God.**” Rom. 14;11, 12

14. **MORAL DUTY OF MANKIND:**

“Fear God, and keep his commandments; for this is the **whole duty of man**. For God whall bring every work into judgment, with every secret thing, whether it be good, or whether it be evil.” Eccl. 12: 13, 14

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15. **FAILURE TO JUDGE RIGHTEOUSLY:**

“What mean ye that he **beat my people to pieces** and grind the faces of the poor? saith the Lord God of hosts.” Isa. 3:15

“Woe unto them that call **evil good, and good evil**. . .which **justify the wicked** for reward, and take away the righteousness (“rights”) of the righteous from him! . . . because they have **cast away the law of the Lord** of hosts, and **despised the word of the Holy One** of Israel.” Isa. 5:20, 21, 24

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