

IN THE CRIMINAL COURT OF MONROE COUNTY, TENNESSEE

STATE

V

JOHN DAWSON

ORDER

The above referenced matter, wherein the defendant is charged with the offense of First Degree Murder, came on for a hearing on 7/22/2011 in Monroe County. Counsel for Mr. Dawson, having filed various motions called up the Motion to Disqualify the Office of General Steve Bebb from the prosecution of the above referenced matter.

Witnesses were called up, sworn and placed under the rule. After hearing the proof offered and the arguments of counsel, the Court makes the following findings of fact:

TBI Agent Jason Legg was the first witness to testify and the Court finds he was credible. Agent Legg testified he became involved at the request of General Steve Bebb. Agent Legg testified that Mr. Pat Henry was a Detective with the Monroe County Sheriff's Department and a part of an undercover investigation involving Mr. John Dawson while he was in custody at the Monroe County Jail. Agent Legg testified Assistant District Attorney General Jim Stutts gave legal advice to Detectives during that undercover investigation wherein Todd Sweet was used as an undercover informant/inmate. Agent Legg testified the releasing of Mr. Dawson's vehicle was to validate the undercover investigation. Agent Legg testified that to his knowledge no other members of the DA's office were involved. This fact is somewhat contrary to prior testimony of TBI Agent David Guy, whom this court previously found to be credible, wherein he testified he personally made General Steve Bebb aware in November of 2008 that members of the Monroe County Sheriff's Department were using Todd

Sweet as an undercover operative/inmate in the investigation of John Dawson. (Testimony of David Guy attached as an exhibit to this Order)

Mr. Pat Henry testified that he spoke to General Stutts on occasion during the undercover investigation of Mr. Dawson. Mr. Henry admitted during examination that a letter was addressed to Mr. John Dawson that he created and it did purport to come from a fictitious Attorney that he created. Mr. Henry testified no District Attorney was ever present during the actual conducting of the undercover investigation that concluded in January 2009 and began in November 2008. Mr. Henry asserted his Fifth Amendment right after being advised by the Court on occasion during his testimony. Mr. Henry had counsel present with him during the hearing. Mr. Henry's actions could be a violation of 39-16-302.

Mr. Dawson and his wife both testified previously and their testimony was admitted as part of collective exhibit # 1 to this hearing. Their testimony was credible and it was corroborated by Mr. Pat Henry's testimony and Doug Brannon's previous testimony which is part of exhibit # 1. Mr. Dawson testified he was told the Attorney General arranged the release of his truck and in fact his truck was released to his wife. Mr. Dawson further testified that the letters he received which had been authored by Pat Henry indicated he, Pat Henry posing as Paul Harris attorney at Law, had met with the Assistant District Attorney, and he was able to arrange the release of the truck and other things through those meetings. These letters and the release of the truck appear to have occurred in December 2008.

The Motion to Disqualify the Office of the District Attorney General for the 10th Judicial District alleges that members of the Monroe County Sheriff's Department represented themselves as attorneys in an attempt to gain Mr. Dawson's trust and consequently information about the above referenced case. The Court finds that Mr. Henry's testimony coupled with testimony from Agent Legg and prior testimony admitted as exhibit # 1 does prove that Mr. Pat Henry did create a fictitious attorney and letterhead and did send a letter to Mr. Dawson under the guise that he was Paul Harris, Attorney at Law.

The Court takes judicial notice of testimony received by the Court from Agent David Guy. All testimony offered either through exhibit or in person does prove to the Court that District Attorney Steve Bebb and

Assistant District Attorney Jim Stutts were made aware that an undercover investigation was going on involving Todd Sweet, John Dawson and the Monroe County Sheriff's Department during November 2008 and December 2008 and January 2009.

The Court has considered whether or not the circumstances of the defendant's case establish an actual conflict of interest that requires disqualification. The Court finds that General Steve Bebb and Assistant District Attorney Jim Stutts have an actual conflict of interest in that they are witnesses to whether or not the District Attorney's office was advising law enforcement to pretend or continue to pretend to be licensed professional's as part of their undercover operation in the above referenced matter. That testimony would be relevant to the pending Motion to Dismiss.

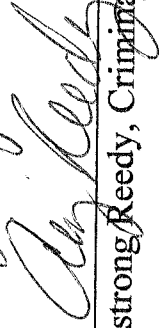
The Court has also considered whether or not the circumstances of the Defendant's case create an appearance of impropriety that requires disqualification of General Steve Bebb and Assistant District Attorney General Jim Stutts and the entire office of the District Attorney General serving the 10th Judicial District in this particular case.

The Court finds that while being dishonest is a relied upon method of undercover law enforcement and there is not anything wrong with trickery and deceit to catch those that violate the law, this case involves the creation of a fictitious licensed professional which could be viewed as a violation of 39-16-302 by then Detective Pat Henry. The knowledge of the undercover operation conducted by law enforcement that has been imputed to District Attorney General Steve Bebb and Assistant District Attorney General Jim Stutts through the witnesses that have testified before this Court creates an appearance of impropriety on the part of the Office of the District Attorney General serving the 10th Judicial District. The Court finds the entire office must be disqualified since the District Attorney General himself and one of his assistant's are found by this Court to have an actual conflict and any other Assistant in that office representing the State in this case would create an appearance of impropriety which must be avoided to ensure and maintain confidence in the integrity of the government and public officials.

The Motion to Disqualify the Office of the District Attorney General for the 10th Judicial District is hereby GRANTED. A District Attorney pro tem will be appointed consistent with 8-7-106 (a) as soon as is possible.

This case will be set on the docket September 26, 2011 to enter a scheduling order and take up any necessary matters.

Enter this 25 day of July, 2011.



Amy Armstrong Reedy, Criminal Court Judge

TIME FILED AM / PM
JUL 26 2011
MARTHA M. COOK
CIRCUIT COURT CLERK