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December 10, 2019

Mr. William Vaillencourt
Prosecuting Attorney
Livingston County
Law Center Building
Howell, MI 48843

Dear Mr. Vaillencourt:

A. THE BACKGROUND HISTORY.

This letter results from revelations in the sworn testimony of former MSP Det. Sean Furlong given to the Attorney General's office and the Michigan State Police on 11/13/18. The Furlong sworn testimony has put you and your office in the crosshairs of serious misconduct.

In 2013 you were put on notice as you prepared to try Walter Kowalski that the Brennan/Furlong and/or Corriveau relationships were so close that presiding Judge Brennan should be removed as Judge on the case. You were reminded that the denial of a fair trial to Mr. Kowalski due to Judicial bias would have serious consequences. (See **Exhibit B**-letter of 1/4/13 and **Exhibit C**-letter of 1/7/13).

Those two letters urged you to question those in your own office and Furlong to determine the true nature and extent of the Brennan/Furlong and Corriveau relationship as it could affect Mr. Kowalski's constitutional right to a fair trial.

You performed no investigation. Instead, on 1/4/13 you appeared in front of Judge Brennan to respond to a motion made by Mr. Kowalski to disqualify Brennan (See **Exhibit D**—transcript of Brennan hearing). Brennan did not reveal any facts to show the nature and extent of her relationship with Furlong. She made conclusions that there was a "friendship" but nothing more. Neither you nor APA Maas responded with the knowledge of "facts" which we now know you had in your possession according to the

Furlong sworn statement given to the Attorney General's office and MSP. That is the reason you never bothered to investigate the allegations of those two letters.

Then Mr. Kowalski's attorney appealed (as allowed under MCR 2.003) to Judge David J. Reader. Judge Reader asked for comment on the issue of whether there were any "facts" or only conclusions. When called upon to speak, Ms. Maas (with you at her side) said to Judge Reader: "*...there are no actual facts that have been placed on the record...*" (Exhibit E-transcript of Reader hearing, p.9).

Trial proceeded and Mr. Kowalski was convicted. He has been in prison since his conviction and sentence in March, 2013. He lost all his appeals. His fate was sealed from a trial devoid of constitutional fairness. *His guilt or his innocence remains in doubt solely because the verdict was the result of a denial of the constitutional right of every citizen to a fair trial.*

However, in December, 2016 the Brennan divorce started and deposition testimony was taken from APA Shawn Ryan and several others. In addition, phone records revealed a large volume of phone conversations and texting between Brennan and Furlong for the year prior to the trial and through pretrial and trial and sentence proceedings.

On February 17, 2017 you were provided a letter outlining the judicial misconduct by Brennan in her conduct of the Kowalski trial along with significant evidence of same. The letter included the conclusion that Mr. Kowalski had been denied a constitutional right to a fair trial. His conviction was constitutionally flawed. (Exhibit F-letter dated 2/17/17).

Your office took no action to provide "justice" to Mr. Kowalski. All you did was file a JTC complaint against the Judge.

Then on November 13, 2018 Furlong gave his sworn testimony (Exhibit G-Furlong Statement Transcript).

Finally, on 1/8/19 your office agreed that based on the evidence Mr. Kowalski was denied a fair trial and agreed to vacate his conviction (Exhibit A—New Trial Order) .

B. THE PROSECUTOR'S DUTY.

The Michigan Constitution Article 7, Section 4 establishes your duty to act in accord with the law. The American Bar Association standard applicable is 3-2.1: "(a) "...The

prosecutor's office should exercise ...independent judgment in the performance of the prosecution function.

(b) The primary duty of the prosecutor is to seek justice within the bounds of the law, not merely to convict.... The prosecutor should seek to ...respect the constitutional and legal rights of ...defendants."

You had a duty not to accept Judge Brennan's conclusory statement on 1/4/13 that she just had a "friendship", since you, Ms. Maas, and your office had knowledge of facts which could negatively impact Mr. Kowalski's right to a fair trial. You did not challenge or question the self serving conclusory statements by Judge Brennan in revealing "facts" known to you as illustrated in the Furlong deposition. *You knew but said nothing.*

The Appeal thereafter went to Judge Reader and this time you went further. You were deceitfully truthful in stating, "*...there are no actual facts that have been placed on the record...*" (**Exhibit E**, p. 9).

We know from the Furlong statement the real truth which made your statement to Judge Reader so deceitful. In short, you knew there were "facts" which would have clearly caused Judge Brennan's disqualification. Your duty was to disclose what you and your office *knew*.

C. THE FURLONG TESTIMONY.

Furlong testified on 11/13/18 concerning the *knowledge within your office* well prior to the Kowalski trial and predating the letters in **Exhibit B** and **Exhibit C** about the facts surrounding the nature and extent of his "friendship" with Brennan when he told the AG and MSP:

1. APA Maas did not ask him when **Exhibit B** was presented about the extent and nature of his relationship with Brennan because she knew it on 1/4/13 and how "close" Brennan and Furlong were to each other (**Exhibit D**—transcript of Furlong

statement pp.19, 103, 105). 2. Everyone in the Prosecutors office “knew” of the relationship between Brennan and Furlong (**Exhibit D-p 20**).¹

3. Various Prosecutors and Furlong had a bet to see which one could get Brennan to meet them for a drink (**Exhibit D-pp. 49-50**) shortly after her appointment to the bench.

4. Vaillencourt personally even joined them at some social events (**Exhibit D-p 127**).

5. Brennan wanted to “date” Furlong but he refused until her husband moved out and wanted a divorce (**Exhibit D-pp 80-81**).

6. Brennan and Furlong were socializing and having drinks together regularly at Jameson’s; Kensington; Mexican Restaurant in Milford (**Exhibit D-pp. 29,31**). Plus multiple lunches with Brennan; sometimes just the two of them, i.e. Brennan/Furlong, and sometimes others. (**Exhibit D pp. 20-21**). Plus dinner parties at Brennan’s home at which Furlong attended (**Exhibit D p.112**).

7. Furlong had been using Brennan’s cottage for years for 2 weeks each summer and Brennan and Corriveau were there often and Furlong and Maas often discussed those vacations. (**Exhibit D-pp. 19,68,**)

8. Furlong/Corriveau and APA Shawn Ryan were at a “skinny dipping” party at Brennan’s home (where Brennan clearly was so “intimately connected” with Furlong/Corriveau that she felt comfortable enough to take her clothes off and join in the festivities). (**Exhibit D-pp. 59-61**).

9. Furlong, when pressed in his testimony said that even though Brennan said she could be fair at the hearing on 1/4/13, he had concerns based upon the nature and extent of their relationship that she would be fair (**Exhibit D-p.118**).

¹ Current Judge Miriam Cavanaugh was an APA in the Prosecutors office all during the lead up to the Kowalski trial and according to Furlong was one of the ones who knew of the relationship. Was she present when the Prosecutors made the bet to see which one could get Brennan to go out for a drink with them, which included Furlong? Did she see Brennan/Furlong socializing together or talk to Brennan about the Furlong relationship? After all, APA Ryan talked to Brennan about her relationship with Brennan and its intimacy as she testified. It is common knowledge that when APA Cavanaugh was running for Judge in 2012 that she and Brennan were very close and Brennan probably made a significant campaign contribution to her election efforts. Would that have caused Judge Cavanaugh to maintain silence? Did the Cavanaugh/Brennan/Vaillencourt connection lead to Judge Cavanaugh scuttling the Burress petition for a Citizens Grand Jury? Did she have a duty to speak up in January, 2013 when newly elected to the Judiciary about what she knew as well? These are separate questions and concerns related to the corrupt actions by the Prosecutor and others in his office.

8. Furlong/Brennan in the company of APA Ryan went Christmas shopping together at Somerset Mall.² (**Exhibit D**-pp. 127)

D. THE COVER UP AND MISCONDUCT.

This Furlong testimony confirmed what most in the legal community suspected in 2013, i.e. that your office knew many “facts” surrounding the nature and extent of the Brennan/Furlong relationship. If you and Ms. Maas had been interested in fulfilling your oath of office and constitutional duty to seek “justice” first and then conviction, Judge Brennan would have been disqualified and Mr. Kowalski would have had a fair trial. Your silence and deceit in front of Judge Reader sealed the fate of Mr. Kowalski.

You also would have discovered all of the above just by talking to APA’s in your office and certainly Furlong as well if you had considered the road map laid out for you in **Exhibit B** and **Exhibit C**. The only reasonable conclusion for ignoring and dismissing the contents contained in those letters is because as we see from Furlong’s sworn testimony, *you already knew the facts*.

But you were not through. Empowered by your success in keeping Judge Brennan on the case while allowing the discrediting of the messenger, you actually elected to use your knowledge of the nature and extent of the Brennan/Furlong relationship to go a step further to give your office an “edge”, a “leg up”, and to “tip the scales of justice” in your favor before one single witness was called to the stand.

The Furlong testimony has fully exposed your egregious misconduct in cementing your complicity in denying to Mr. Kowalski a fair trial. You knew Brennan was biased in favor of Furlong. You knew the benefits to your office of that bias. In the most damning testimony of all, **Furlong revealed that APA Maas told Furlong she wanted him to do her a favor and sit at counsel table beside her “cause I (sic Furlong) was friends with the Judge, and she (sic Maas) knew it.” (Exhibit D-p 106). Even Furlong said it was “bizarre that I was at the table”. (Exhibit D-p. 106).**³

² The only ray of sunshine in this story of Prosecutorial misconduct was the integrity of APA Shawn Ryan. She honored her oath and told the truth knowing she could incur potential repercussions from her boss. In fact, APA Ryan knew about much of the contact related by Furlong and also knew about the “kiss” in 2008 which both Furlong and Brennan acknowledged to Ryan long before they came under scrutiny. When their relationship was exposed in 2016 in the divorce, both Furlong and Brennan changed their story to one of denial of a kiss. They certainly had strong reason to deny the kiss when the walls started to crumble around them.

³ According to Furlong’s testimony he was specifically removed from the Kowalski case by his superior in order to give a younger serving Detective an opportunity to be in charge. (**Exhibit D**-pp.11-12)

This house of cards began to crumble with the Brennan divorce. But you stood firm in February, 2017 when you tried to ship the issue off to the JTC for their review which you had to know would take an eternity for action. In the meantime, perhaps the old Mr. Kowalski (in his 70's) would die in prison, ending the search for truth and saving your flawed conviction and the part you played in securing it. But Kowalski did not die. The JTC finally acted but it took you 22 months from the day you saw the facts (most of which you knew in 2013) in black and white in sworn testimony and other evidence to finally agree to undo the structurally defective verdict and magnanimously agree to a new trial for Mr. Kowalski.

E. CONCLUSION.

YOU KNEW:

1. From 2008 forward that the Brennan/Furlong “friendship” was extensive and included lunches; after work drinking; dinner parties; trips for years to Brennan’s cottage; the admission of the “kiss”; and more, all of which certainly should have caused her to be removed as presiding Judge in the Kowalski trial.

2. That the letters sent in 2013 in Exhibit B and Exhibit C and the substance contained in them was true, based on your prior knowledge.

3. That you had a duty to offer up the “facts” of the Brennan/Furlong “friendship” and its nature and extent in order to preserve Mr. Kowalski’s right to a fair trial.

4. That your decision to conceal from the Court prior to the start of the trial the “facts” you and your Chief Assistant and office knew, in order to keep a favorable biased Judge presiding over the trial, if discovered would lead to a constitutionally flawed verdict.

5. That putting Furlong at counsel table would give you the “improper edge” you needed and that it was misconduct to do so in the context of your knowledge.

6. That in February, 2017 you had a duty to agree to a new trial for Mr. Kowalski at that moment but you delayed 22 months seeking to cover up your significant role in denying a fair trial to Mr. Kowalski.

7. That others including the undersigned would also file a JTC complaint and that you intentionally decided to avoid doing your sworn duty to immediately agree to a new trial for Mr. Kowalski, preferring to delay hoping that others would provide cover for your misconduct.

You have disgraced the office of the Prosecuting Attorney and helped to make our legal community the laughing stock of the state.

How could you consider with all you have intentionally done to cover up your part in the denial of the most basic of our constitutional rights—a fair trial, to stay in charge of this retrial is beyond all sense of reason, justice, and logic.

How could you in good conscience stand before any Judge and assert your interest in assuring that Mr. Kowalski will receive a fair trial free of prosecutorial misconduct given your intentional concealment of facts and using Furlong to improperly “curry the favor” of Brennan in her rulings?

You sat silent and permitted Brennan to attack my motives on 1/4/13 and you sat silent when Judge Reader had to do the same since no “facts” were given to him. You have done nothing to publicly commend the integrity of your APA Shawn Ryan for telling the truth. That silence in the face of truth speaks volumes about your commitment to your duty.

I am nothing more than a citizen who tried to speak to power in order to avoid a miscarriage of justice before the start of a trial which would occur if no one revealed the “facts” which show the basis of bias/impropriety of the presiding Judge continuing to sit on the Kowalski case. Read **Exhibit B** and **Exhibit C** again if you have questions. You did not like the timing of the letters coming so close to the start of your trial. That was not my fault. The fault was all at your doorstep. You had the chance to correct it before the damage was done but you did not do so. Instead, you actively concealed the knowledge of “facts”.

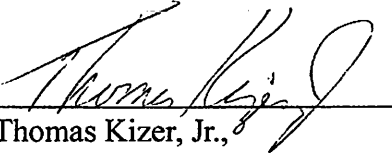
The emotional toll on Mr. Kowalski and his family has certainly been extraordinary. The emotional toll on the family of the victims having to go through all of this again is also distressful.

The financial cost to us as taxpayers to support your intentional failure to do your duty is huge.

You should now resign and demand that Ms. Maas do the same. You owe a duty to withdraw immediately as Prosecutor in this case and request the Attorney General to assign an independent Prosecutor to assign a new prosecutor to examine all the issues involved in a retrial and to represent the interest of the State in doing so. In fact, an independent Prosecutor will be required to look at your misconduct as outlined above, and may well determine based on the now revealed Furlong testimony that “double jeopardy” may have attached due to your intentional misconduct.

Your misconduct was further exacerbated by your failure to agree to the new trial for Mr. Kowalski in February, 2017 when the evidence of the Judge’s bias and impropriety was

placed on your desk, but you left Mr. Kowalski imprisoned for 22 more months before agreeing to undo a trial you knew again in February, 2017 was the product of Judicial misconduct. Was evidence or witness testimony lost or otherwise compromised due to your misconduct in 2013 and again in 2017? Will Mr. Kowalski ever be able to have the "fair" trial he was entitled to in 2013?


Thomas Kizer, Jr.,
Citizen

Exhibit's Attached

EXHIBIT A

STATE OF MICHIGAN
IN THE 44th CIRCUIT COURT FOR THE COUNTY OF LIVINGSTON

PEOPLE OF THE STATE OF MICHIGAN,

v.

Case No. 08-017643-FC
Hon. Matthew J. Stewart

JEROME WALTER KOWALSKI,

Defendant.

William J. Vaillencourt, Jr. (P39115)
Prosecuting Attorney
210 S. Highlander Way
Howell, Michigan 48843
(517) 546-1850

Peter Jon Van Hoek (P26615)
Attorney for Defendant
State Appellate Defender Office
Suite 3300, Penobscot Building
645 Griswold Street
Detroit, MI 48226
(313) 256-9833

ORDER VACATING JUDGMENT OF CONVICTION AND
GRANTING DEFENDANT NEW TRIAL

At a session of Court held on:

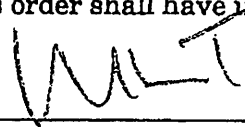
1-8-19
HON. MATTHEW J. STEWART

Defendant has sought relief from judgment under MCR 6.502 requesting a new trial. By stipulation of the parties to entry of this Order; after a thorough review of the conduct of the trial judge in this case, Judge Theresa M. Brennan, the parties having agreed that her failure to recuse herself from conducting the trial in this matter establishes "a probability of actual bias on the part of the judge ... too high to be constitutionally tolerable" under the Due Process Clause as provided by *Caperton v AT*

Massey Coal Co, 556 US 868 (2009), and that such conduct constitutes a structural error requiring reversal of Defendant's convictions; and the parties otherwise agreeing to the terms and conditions of this Order as the appropriate remedy;

IT IS ORDERED that relief from judgment is granted and the judgment of conviction entered in this matter is vacated and set aside and Defendant is granted a new trial. The Court shall, by separate order, set dates for further proceedings in this matter, including a determination of whether Defendant will be requesting court-appointed trial counsel. Defendant shall be remanded to the custody of the Livingston County Sheriff pending further order of this Court;

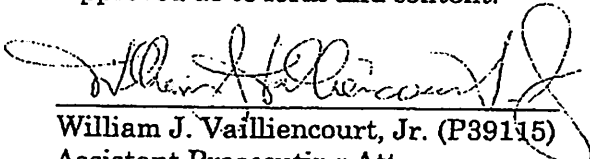
IT IS FURTHER ORDERED that this order shall have immediate effect.



Hon. Matthew J. Stewart
Circuit Court Judge

P53047

1-8-19

Approved as to form and content:


William J. Vaillencourt, Jr. (P39115)
Assistant Prosecuting Attorney


Peter Jon Van Hoek (P26615)
Attorney for Defendant

Somebody called 767377
Saw me with Peter Vaillencourt for Peter Van Hoek

EXHIBIT B

THOMAS KIZER, JR
207 N. Michigan Ave.
Ste. 200
Howell, MI 48843

January 4, 2013

Mr. William Valliencourt
Livingston County Prosecutor
Highlander Way
Howell, MI 48843

Sent by facsimile and regular mail

Re: Request for Investigation of Judge Theresa Brennan in matter of People v. Walter Kowalski

Dear Mr. Valliencourt:

Your office is acting on behalf of the State in the prosecution of Defendant Walter Kowalski for the life offense of murder. You have inherited this case from your predecessor, Mr. Morse. The purpose of this letter is to raise a serious issue which may impact the outcome of the trial of this matter and to seek action by your office in the discharge of your duty.

Specifically, I believe Hon. Theresa Brennan, acting as judge in this matter has not disclosed to the Defendant the relationship and extent thereof with two police officers, who are listed as witnesses in this case. The officers are Furlong and Corriveau.

It is my assertion that based upon information made available to me that judge Brennan has a lengthy social relationship with officer Furlong and that this officer has even been a social guest in the judge's home. Further, that a prosecutor on your staff may have been present on more than one occasion where officer Furlong was with the judge in a social setting. Secondly, as recently as November 14, 2012 officer Corriveau was in the courtroom of judge Brennan in plain clothes and she stopped the others matters before her and invited him to her chambers for a one on one meeting. I do not believe that contact has been reported to the parties. Perhaps the meeting was totally proper but it certainly seems inappropriate for a judge to meet with a police officer potential witness on the eve of trial without promptly disclosing same to all counsel. The complaints I raise relate to more than a casual inadvertent contact with witnesses. My complaint concerns a pattern of association with state witnesses by the trial judge, which, if true, are problematic at best.

I do not want a guilty person to have a conviction reversed due to a serious error committed by any judge which could easily have been avoided by prompt disclosure of the relationship and/or recusal. Equally important, an innocent person should not be subjected to the possibility of conviction resulting from a bias in favor of the testimony of state witnesses from the trial judge resulting from a close personal relationship.

I believe the duty of the prosecutor is to do everything reasonably possible to assure a fair trial and to disclose information known to your office which could impact a fair trial to any Defendant and particularly in the most serious of cases in our community. I am reasonably certain that one or more members of your staff of assistant prosecutors know of the social connection. I believe you have the ethical obligation to fully investigate this issue and provide the proper relief in order to assure the integrity of our judicial system. The judge has apparently not done so. It falls upon your office to correct this matter before a greater injustice is created.

As the result of the failure to disclose the relationship as I believe the judge is duty bound to do pursuant to MCR 2.003 (C) and the Michigan Code of Judicial Conduct, Canons 1, 2, and 3(C) the Defendant may be freed as the result of the improper and prejudicial conduct by his trial judge, unrelated to issues of guilt or innocence. I do not know whether this judge may be part of a violation of our laws for some malfeasance, misfeasance, or non-feasance in office and/or the common law offense of obstruction of justice. I request your investigation of that issue as well. At minimum the judge's actions in failing to disclose these relationships or to recuse herself may very well deny Defendant the protection of his federal and state constitutional rights to a fair trial, due process, and the equal protection of the law.

The extent of the interaction by this judge sitting in judgment of credibility issues which may also involve critical testimony of these officers demands investigation. The difficulty is that given the fact that judge Brennan has failed to make Defendant and his counsel aware of the total extent of her social interaction with the officer(s) and her potential for serious bias in their favor, there is the further perception that something more disturbing is involved beneath the surface. Likewise, if members of your staff knew of this connection and did not raise it, this is also serious. Your duty is to justice and not the judge.

The information I have available is that neither of these relationships/connections outside her official duties nor the extent thereof have been disclosed by her to the Defendant or his counsel. Nor has she suggested she should disqualify herself in order to assure fairness and its appearance to all parties.

It would appear that any investigation surrounding issues should include the following inquiries:

- How often have you socialized with either officer?
- Where did you do so?

--Describe specifically each and every contact and the circumstances surrounding each contact.

--Who was present on each occasion?

--What did your discussion with officer Corriveau involve on November 14, 2012.

--Have you ever been alone socially with either officer? If so, describe the circumstances.

--Have you discussed the murder charge with either officer in any way outside the presence of both counsel for State and Defense?

I raise these issues as a concerned member of our community. I believe I am duty bound to do so. This is a public official and a public issue of considerable importance. I regret having to raise it.

Thank you.

Thomas Kizer, Jr.
Attorney at Law

cc: Mr. James P. Hughes
Regional Administrator, SCAO

Hon. Robert P. Young, Jr.
Chief Justice, Michigan Supreme Court

F/Lt. Joel Allen
Post Commander
Michigan State Police, Brighton

Hon. David Reader
Chief Judge, 44th Circuit Court

EXHIBIT C

THOMAS KIZER, JR
207 N. Michigan Ave.
Ste. 200
Howell, MI 48843

January 7, 2013

Mr. William Vaillencourt
Livingston County Prosecutor
Highlander Way
Howell, MI 48843

Sent by facsimile and regular mail

Re: Request for investigation into actions of Hon. Theresa Brennan

Dear Mr. Vaillencourt:

I am compelled to follow up on my letter requesting your full investigation into the activities of Hon. Theresa Brennan in connection with the case your office is prosecuting of People v. Walter Kowalski. I read in the local paper that your chief assistant suggested there are no facts in the record to evidence a bias by the judge. Judge Brennan is quoted by the paper that the only true facts are those relating to officer Corriveau being invited to her chambers to discuss a search warrant. Yet, both judges confirmed her friendship with these officers. Judge Reader even went so far as to acknowledge the widespread knowledge in the legal community of her friendships with the officers in question. "Friendships" are developed through contact. It would seem thereby that statements in my letter of January 4, 2012 referring to contacts with these officers and the judge need exploration as to their extent and nature.

No one explored the extent or nature of those friendships. No one from your office acknowledged the extent of contact between judge Brennan, your assistant(s), and either of these officers. No one from your office apparently inquired of the judge the specific concerns raised in my request. If anyone had done so, then there would be "facts" available upon which a proper determination could be made as to whether judge Brennan is so closely attached in her friendships with these officers as to make her less than impartial when it comes to weighing the credibility of the officers testimony. The extent of these "friendships" is of great importance. Is it only a casual connection from time to time at large gatherings, or are either of these relationships of a more personal nature? Judge Brennan's response was that she has these "friendships" with the officers in question but then she calls the allegations I made in referring to the friendships as untrue. She cannot have it both ways.

Only a month ago at the retirement party for the former prosecutor, I believe it is common knowledge in the legal community that she invited one or both of these same police officers to her home that evening after the festivities. Were members of your office privy to this? On the eve of such a serious case, why would the judge do so? Was the case discussed? Even if not discussed, would you permit a juror to be seated in judgment of your case if that juror was inviting the witnesses against you into her home on the eve of your trial? I think we all know the answer to that question. Equally important, such actions on the eve of trial are evidence of more than just a casual social connection. One additional question would be whether judge Brennan and officer Corriveau and/or Furlong had phone, email, or personal contact about the motion to recuse and the claims made in it on Friday before the hearing. (A FOIA request for phone and email records could assist in verifying all such contacts.) "Facts" if developed may very well show a basis for a real bias in favor of one or more of these state witnesses against the Defendant.

Judge Reader in reviewing the issue of recusal of judge Brennan had no specific facts. None were presented to him. Your office offered nothing except a conclusion that judge Brennan was not biased in favor of these officers. You had a duty to provide clarity as to the facts known to your office by your assistants who may have socialized with the judge and these officers on more than one occasion. Silence was not a proper option for your office.

The media reports statements attributed to the judges that I was motivated by something other than justice for the Defendant. Let me be clear. I do not want a guilty man to have a conviction reversed if his trial was tainted as a result of the close/inappropriate relationships between this judge and critical witnesses for the state. Judge Reader commented upon the common knowledge in the legal community of the social connection of judge Brennan to these officers. Yet, since no facts were forthcoming from judge Brennan as to the extent of her involvement with these officers and how it may impact her potential for bias, the motion for recusal was denied as lacking evidence. That was no surprise but certainly no vindication of judge Brennan.

Members of your staff may be privy to the extent of those contacts between these officers and the judge. Further, I would assume that if there was a search warrant request from officer Corriveau several facts supporting the judge's statement would be easily gathered and verified. For example, was a search warrant issued? Did your office have knowledge of it before or contemporaneously with it as the chief law enforcement officer of our county? Was there a file set up and copies left at the court? Did officer Corriveau have his trip to the court for a search warrant logged with his superiors? Was there a record made of such proceedings where someone may have been subjected to a search? Or, was the purpose of this meeting with judge Brennan in her chambers with officer Corriveau something else entirely? (As an aside, I would regret being the target of a search warrant request by an officer with whom judge Brennan had a close relationship knowing the impact of a bias in favor of the officer created with the judge by such relationship. This too must be investigated by your office--unconnected to the current case.)

Likewise, answers to questions raised in my January 4, 2013 request were never addressed. Why not? If all that was involved between the judge and these officers was just a casual social contact on a limited basis then I would agree with the conclusion of judge Reader. The paper reported that judge Brennan was tearful and emotional on the bench over this matter. Why? Was she concerned about the nature and extent of her social relationships with either of these officers? Was her demeanor on the bench an intentional act used to deflect any probing questions? Was it done to receive the sympathy of your office or to somehow convince the Defendant he had nothing to worry about concerning bias by judge Brennan?

Judge Brennan had the opportunity to act judicial. She should have specifically informed the defense of her contacts with these officers in detail. Instead, she used tearful emotion to deflect and avoid answers to the true issues. Imagine the result if she had advised the defense of the extent of her relationship with these officers with specific facts. Had she done so, that might have solved everything. Unfortunately, she chose emotion over information.

A conclusory statement by judge Brennan that she had no bias in favor of these officers if they testified in this "capital" crime case would be probed by the attorneys in detail if the judge was a potential juror. You know that and so do most law school freshmen. Your duty is justice -- not the protection and ratification of the judge's conclusory statements by your assistant. Perhaps judge Brennan will be fair during the course of this trial. I do not know. But one thing is certain: No "facts" surrounding the basis of potential bias by her in favor of these friendships have seen the light of day and her future rulings on issues dealing with the testimony of either of these officers and whether it will be influenced by her relationships with either of them is unknown at this point because you have not searched for the answers.

Bias and the appearance of impropriety are legitimate concerns. When (not "if") during this trial, judge Brennan is called upon to rule on credibility issues involving either of these two officers and if she rules in their favor to the Defendant's detriment, some higher court reviewing this matter, if the Defendant is convicted, will eventually probe or remand in order to determine the extent of these social relationships and whether such relationships materially influenced rulings by judge Brennan adverse to the Defendant. If a guilty person is freed because of the temerity and unwillingness of your office to discharge its duty then you will have to live with that knowledge.

Instead of engaging in an emotional tearful denial of bias, it would have been more helpful in preserving the integrity of our judicial system and respect for our judges if judge Brennan had fully, completely, and with specificity provided the extent, nature, and detail of her social relationships with each of these officers. Then a reviewing court would have had some facts with which to make a thoughtful, independent ruling. As it turns out, it looks like judges protecting judges and prosecutors doing the same, whether it is true or not. We deserve better.

Once again I request you to investigate and report specific findings. If judge Brennan just happened to see these officers at social gatherings, I would never have been concerned. You have an obligation to investigate and determine from "fact gathering" whether there is something seriously wrong here and potential violation of our laws. I stand by my request for a full and complete investigation of the actions of this judge. Her behavior on the bench as observed by the media is disturbing. Is she covering up something that would affect her ability to serve as judge in this case? How often have you witnessed such strange behavior by a jurist dealing in this type of motion? I have never witnessed such behavior in 45 years of practice. As Marcellas observed in Hamlet, "...something is rotten in the state of Denmark". Is that the case here? What, if anything, is the judge not revealing? If it violates the law your duty is clear. If the judge is failing to come forth with the specifics of the nature and extent of her relationship with one or more of these state witnesses that impact her duty as an impartial jurist in this case (and for that matter in others in which one or more of these officers give testimony), she may have some culpability for those actions under our law. Your duty is clear and I respectfully ask you to perform it. If you are too close to the judge to do so or if you are concerned with your own assistants connection to the matter, then please refer it to the attorney general for investigation, or request appointment of a grand jury to perform a full and complete investigation of these issues. Justice will then, and only then, be done.

Cordially,
Thomas Kizer, Attorney

Cc: Hon. David J. Reader
Chief judge

Lt. Joel Allen
Brighton Post Commander
Michigan State Police

Mr. James Hughes
SCAO

Mr. William Schuette
Attorney General of Michigan