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COMMONWEALTH OF KENTUCKY
NELSON CIRCUIT COURT
INDICTMENT NO. 23-CR-00309
DIVISION 1

WHAS

COMMONWEALTH OF KENTUCKY

PLAINTIFF

VS.

ORDER

BROOKS WILLIAM HOUCK

DEFENDANT

* * * * *

By way of background, the defendant, Brooks William Houck (hereinafter "Brooks"), was previously in a relationship with Crystal Ballard Rogers (hereinafter "Rogers"). Rogers went missing in the summer of 2015, and the Nelson County Sheriff's Department identified Brooks as the primary suspect in her disappearance.

On May 10, 2017, this judge (who also hears family court cases) conducted an evidentiary hearing over the custody and time-sharing of an eight year old child in *Maupin vs. Maupin*, Nelson Circuit Court, Civil Action No. 13-CI-00667. At that time, the child's mother, Crystal Dawn Maupin (hereinafter "Maupin"), was Brooks' paramour. This Court subsequently entered a nine-page Order on May 25, 2017.

Earlier this fall, the Nelson County Grand Jury charged Brooks with murdering Rogers and tampering with physical evidence. At his arraignment, Brooks made a motion for a bond reduction. After the Court denied same, Brooks filed an appeal and then sought this judge's disqualification pursuant to KRS 26A.020.

On October 25, 2023, the Chief Justice of the Supreme Court of Kentucky remanded Brooks' disqualification request to the undersigned judge with directions to "review the affidavit as a motion to recuse and either grant or deny the request." This judge then provided the Special Prosecutor with an opportunity to file a responsive memorandum. A response was later filed on

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November 14, 2023, with the Commonwealth asserting that there were insufficient grounds for disqualification. This Court will now address and adjudicate this pending matter. **WHAS**

In Kentucky, this judge has an “obligation to hear and decide cases when no real reason to recuse exists.” *Abbott, Inc. vs. Guirguis*, 626 S.W.3d 475, 484 (Ky. 2021) (citing SCR 4.300 (1999), Canon 3B(1) (stating “[a] judge shall hear and decide matters assigned to the judge except those in which disqualification is required”). For the reasons stated hereinbelow, this judge believes that Brooks’ grounds are insufficient for disqualification.

1. The Family Court Decision.

Brooks’ motion is premised on one sentence from Maupin’s nine-page custody and time-sharing Order. That sentence states “[f]inally, this Court is simply astonished that [Maupin] would want a relationship with a man who is the prime suspect in the disappearance and presumed death of his previous girlfriend.” Brooks contends that this one sentence proves that this judge is prejudiced and biased against him.

Interestingly, Brooks completely ignores that this judge’s ultimate decision was completely favorable to him. In fact, over the objection of the child’s father, this judge granted Maupin’s motion which allowed Brooks to have contact with this eight year old child. The child’s father also accused Brooks of assaulting Rogers’ daughter. However, this judge specifically determined that there was “insufficient evidence . . . to determine whether any assault had occurred.” Had this judge been prejudiced and biased against Brooks, it is simply unimaginable that Brooks would have prevailed on every issue related to him.

This judge used the word “astonished” because there was alarming evidence that Maupin’s relationship with Brooks could negatively impact the child. In fact, prior to that one sentence, this Court provided a number of written findings that would be worrisome for any

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family court judge. First, Maupin's employment was terminated because her employer "was receiving threats due to [her] relationship with Brooks." Second, Maupin admitted to the following: "(1) that some of Brooks' cattle have been shot, (2) that on an occasion, Brooks' lug nuts were missing from his truck, and (3) that people ride by giving them the finger." Third, Maupin admitted that "she was under considerable stress" during the early stages of her relationship with Brooks. She based her stress on the following: "(1) that law enforcement had just conducted a search of Brooks' property, and (2) that people were learning of their relationship and posting negative comments about them on social media." Fourth, Maupin "admitted that when her relationship with Brooks began there was so much harassment that it was not in [her child's] best interests to be exposed to that chaotic situation."

Brooks also completely ignores the context of this one sentence. The preceding sentence stated that "[Maupin] is simply one fight away from being homeless and destitute" while the following sentence stated "[i]f Brooks is ever charged with crimes related to [Rogers'] disappearance and death, [Maupin] should think about the possible ramifications for [her child] and herself." In a nutshell, this judge simply wanted Maupin to contemplate how potential criminal charges could impact her and her child. For instance, would she still have a home? Would she have employment? If people continue to post negative information on social media, how will her son handle this? If her son develops a strong bond with Brooks, how will the child handle an arrest and possible incarceration?

Unbelievably, Brooks argues that this one sentence "creates the clear impression that Judge Simms prejudged Mr. Houck's guilt six years *before* he was charged." See KRS 26A.020 Affidavit in Support of the Disqualification of Hon. Charles Simms, p. 4. However, there is absolutely no language in the entire nine-page Order, including the one sentence that Brooks

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relies upon, where this judge rendered any opinion whatsoever about Brooks' guilt or innocence as to Rogers' disappearance and presumed death.

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2. The Bond Amount.

The \$10,000,000.00 bond was recommended by the Special Prosecutor. When this judge queried the grand jury about the reasonableness of same, one juror promptly said "double it" while others shook their heads in agreement. Although these jurors may be unfamiliar with bond factors, their reaction is indicative of this case being uniquely different from all others.

Brooks complains that this judge has fixed his bond five times higher than any other defendant. However, Brooks fails to mention his wealth and his access to substantial financial resources. In particular, this judge determined that Brooks' three business entities own 83 properties in Nelson County. The tax assessments for 66 of those properties total approximately \$8,500,000.00. In contrast, the vast majority of defendants charged with Class A Felonies in the Tenth Judicial Circuit qualify for a public defender. Although some have retained counsel, this judge cannot recall any defendant owning real property within the Tenth Judicial Circuit that was assessed anywhere close to \$500,000.00. As a result, it appears that Brooks is at least seventeen times wealthier than any other defendant.

This judge next considered the gravity of the murder charge while recognizing that Brooks' pretrial assessment indicates that he is a low risk for flight and a low risk to reoffend. However, his assessment rating is not particularly helpful because Brooks is facing twenty to fifty years, or life, in prison, with harsh parole eligibility requirements. In addition, all defendants with a limited criminal record are assessed as a low risk. In fact, this judge would submit that these individuals would be classified as low risk for flight under this state's pretrial

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assessment: O.J. Simpson (on his double murder charges), the Boston Marathon bombers, Bernie Madoff, Jeffrey Epstein, Ghislaine Maxwell, and Eric Conn.

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This judge is also concerned with Brooks' ability to comply with bond terms, especially with the Commonwealth asserting that five of his family members have flagrantly violated the criminal rules of procedure by secretly recording their grand jury testimonies. The Special Prosecutor proffered a recording supposedly taken by Brooks' sister, Rhonda McIlvoy (hereinafter "Rhonda"). On that recording, the female expresses concern as to whether the device would start beeping. A male voice then reassures her by stating "it's got brand new batteries in it." The female later states "you're keeping it. Keep it out here." The male responds "no, we need to hear it." The Commonwealth contends that the male voice belongs to Brooks.

Brooks is most offended by this judge asking whether the Commonwealth was concerned for the safety of witnesses. The Special Prosecutor then disclosed that law enforcement possessed the firearm that was believed to have been used to kill Rogers' father, Tommy Ballard (hereinafter "Tommy"), who had persistently searched for his daughter's remains and attempted to gather evidence related to her disappearance. The Prosecutor asserted that Brooks' brother, Nick Houck (hereinafter "Nick"), sold this rifle while using a fictitious name. This firearm is the same caliber as the one used to kill Tommy. This rifle is currently undergoing testing, and the Commonwealth claims that testing has already determined the presence of four of the five criteria needed for matching this gun to the one used in Tommy's killing.

This judge is obviously troubled by the allegation of Nick selling this firearm while using a fictitious name. As grounds, one witness, Tommy, is already unavailable to testify. In addition, Nick has a history of providing ill-advised assistance to his brother, Brooks. For example, Nick's employment with the Bardstown Police Department was terminated for

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interfering with the investigation related to Rogers' disappearance. It also appears that Nick secretly recorded his grand jury testimony. When Rhonda expressed concern with using the recording device, the male voice responded "no, we need to hear it." With this conversation supposedly being between siblings, it is reasonable to assume that "we" refers to Nick, especially since the male voice previously stated that "Nicholas can find it."

When Brooks' bond was initially fixed, this judge specifically considered witness safety because there is good reason to believe that the Commonwealth has one or more cooperating witness(es). This judge was also aware of this firearm's recovery because the undersigned had approved a number of search warrants related to these two investigations. However, this judge was without knowledge as to all evidence because judges from other jurisdictions have approved a number of search warrants related to these cases. Regardless, if this judge could consider the safety of witnesses when bond was initially fixed, it is inconceivable that this judge is somehow precluded from asking questions related to witness safety at the bond hearing.

Brooks also claims to be a "pariah" of the community and that his bond is the result of "public clamor or fear of criticism." Unfortunately, this judge has certainly dealt with his fair share of criticism over the past twenty years. In fact, the most controversial cases have been those related to a city council attempting to remove a mayor. This judge has actually presided over three mayoral removals (Horse Cave, Hodgenville, and Bardstown), with this judge having to reinstate an unpopular mayor. Regardless, Brooks' bond is based on the reasons contained in the Order denying the bond reduction, and not based upon "public clamor and criticism." In addition, this judge has no intention of running for re-election.

Finally, some judges have the misfortune of being assigned criminal cases where the bond is fixed significantly higher than all of the judge's other cases. For instance, Robert Durst's

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bond was set at \$3 billion, Sam Bankman-Fried's at \$250,000,000.00, and Michael Milken at \$250,000,000.00. This judge's outlier case is the one at hand.

WHAS

NOW, THEREFORE, THE COURT BEING SUFFICIENTLY ADVISED, IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:

1. That the defendant's motion to recuse is hereby denied.
2. That the Nelson Circuit Clerk shall certify a copy of this Order along with a copy of the Commonwealth's response to the Chief Justice.
3. That this Order is interlocutory in nature.



HON. CHARLES C. SIMMS III
electronically signed
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JUDGE, NELSON CIRCUIT COURT

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Special Prosecutor
Brian Butler
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