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August 1, 2016

Hon. Devon Anderson
Harris County District Attorney
1201 Franklin, 6th Floor
Houston, Texas 77002

RE: Request for appointment of attorney pro tem

Dear Ms. Anderson:

I am writing to request the appointment of an attorney pro tem, or “special prosecutor,” pursuant to Article 2.07 of the Texas Code of Criminal Procedure.

On July 18, 2016, I filed a federal lawsuit on behalf of my client, “Jane Doe.” The lawsuit alleges, *inter alia*, that employees of your office committed the criminal offense of Official Oppression in violation of Section 39.03 of the Texas Penal Code. This provision makes it a Class A misdemeanor if:

- (a) A public servant acting under color of his office or employment commits an offense if he:
 - (1) intentionally subjects another to mistreatment or to arrest, detention, . . . that he knows is unlawful¹; [or]
 - (2) intentionally denies or impedes another in the exercise or enjoyment of any right . . . , knowing his conduct is unlawful.

...

¹ The Court of Criminal Appeals has held that an allegation of specific criminal intent is not required when charging an actor with Official Oppression; rather, the intent underlying the actor’s mistreatment of another may be merely tortious. *State v. Edmond*, 933 S.W.2d 120, 126-27 (Tex. Crim. App. 1996).

Viewed in a light most favorable to the allegations in the lawsuit, I anticipate the evidence to show that prosecutors, aided and abetted by others in your office, broke the law by obtaining an illegal attachment order/witness bond that was unauthorized by any rule, regulation, case, or statute. Specifically, there was no legal basis for your employees to “attach” my client and illegally confine her in the Harris County Jail for 27 days, because:

- she was not under subpoena, *see* Art. 24.12, Tex. Code Crim. Proc.;
- she was not a resident of Harris County, *see* Art. 24.14, Tex. Code Crim. Proc.; and
- she was not financially able to pay a surety bond, *see* Art. 24.24, Tex. Code Crim. Proc.

Prior to filing the lawsuit on behalf of “Jane Doe,” I gave your office every opportunity to provide any conceivable legal basis for my client’s Kafkaesque confinement in the Harris County Jail, but your office was unable or unwilling to do so.

Furthermore, during my client’s illegal confinement in the Harris County Jail, your employees deliberately lied to my client’s mother on Christmas Eve to dissuade her from posting bond so my client could be released. This caused my client’s continued illegal imprisonment in the Harris County Jail over the Christmas and New Year’s holidays.

Reasonable minds cannot disagree that I have made more than a colorable claim² that your employees engaged in the Class A misdemeanor offense of Official Oppression in their callous and deliberate mistreatment of my client. This is an exceedingly serious matter on multiple levels that clearly deserves a full, fair, and independent investigation by a neutral and detached prosecutor with no ties to your office. Indeed, the public’s continuing confidence in the integrity of the criminal justice system mandates the appointment of an attorney pro tem.

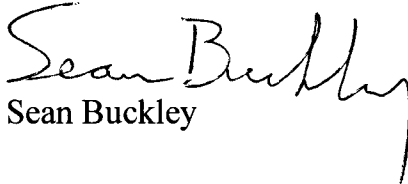
Upon receipt of this letter, I ask that you immediately contact our local Administrative Judge Susan Brown to notify her that you are asking that your office be formally recused in this matter, so that Judge Brown may immediately

² If you believe that a defendant is entitled to the dismissal of a felony indictment based on little more than a “colorable” claim of grand jury irregularities, then it stands to reason that we are no less entitled to the appointment of an attorney pro tem, having clearly met this threshold.

appoint an attorney pro tem. If I have not received word by the close of business on Friday, August 5, 2016 that you have recused your office and sought the appointment of an attorney pro tem, I will presume that you have declined to do so.

Thank you in advance for your prompt response and action.

Respectfully,


Sean Buckley

cc: Hon. Susan Brown
Hon. Belinda Hill
Mr. Dick Bax
Mr. Scott Durfee