

BEFORE THE ALABAMA COURT OF THE JUDICIARY

IN THE MATTER OF:

STATE OF ALABAMA JUDICIAL INQUIRY
COMMISSION

V.

THE HONORABLE TRACIE A. TODD
CIRCUIT JUDGE, BIRMINGHAM DIVISION,
CRIMINAL DIVISION, JEFFERSON COUNTY, ALABAMA

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FILED

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COURT OF THE JUDICIARY
Rebecca C. Oates
Secretary

Case # 58

MOTION TO STRIKE COMMISSION OBJECTION TO EXPERT TESTIMONY

Comes now, Judge Tracie A. Todd (Defendant), and requests this Honorable Court to deny and/or strike the Commission's motion to preclude expert witnesses called by the Defendant.

On August 31, 2021, the Defendant requested funds commensurate with the resources provided through tax payer funding for the Jefferson County District Attorney's Office and the Commission. In that request, the Defendant sought funds to retain a number of experts including an expert in the field of death penalty litigation. The Commission was served with said motions. The Court denied these requests. As a result, the Defendant now defends against two state funded agencies with only her personal funds, which are limited.

The strategy used to prosecute the Defendant is unprecedented. The Commission alleges that the Defendant violated ethics rules based on death penalty rulings and hearing schedules. The testimony of a death penalty litigation expert is necessary. Said testimony will not be proffered to invade the province of the Court, but to provide relevant evidence based on the Alabama Judicial Canons for the Court to consider.

The Commission's complaint details allegations that span nearly a seven-year period, and was investigated by two State agencies: 1. The Jefferson County District Attorney's Office, the largest prosecuting agency in the State of Alabama; and 2. The Judicial Inquiry Commission. Because this prosecution is brought to the Court by two state agencies, there are a number of legal issues of first impression. Critical to fair proceedings is the Defendant's ability to present relevant testimony for the Court to consider.

The Defendant through due diligence has now secured the expert testimony of Mr. Leroy Maxwell in the field of death penalty litigation. The Commission will not be prejudiced by this witness. The Jefferson County District Attorney's Office and the Commission have access to a number of prosecutors and attorneys to present rebuttal on an "on-call" basis. The Defendant respectfully requests that this Court deny the Commission's motion, and allow a proffer of these experts.

Respectfully submitted by Counsel for Judge Todd:

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We hereby certify that we have on this 6th day of November, 2021 electronically filed the foregoing with the Court of the Judiciary, and that we have further served a copy, and properly addressed as follows:

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Respectfully Submitted,

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