

Justice Is Everyone's Business

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*Seeking to Restore Integrity and
Public Trust in Our Justice System*

Let's Return to the Bill of Rights

December 17, 2019

Judge Thomas Hart
Marion County Courthouse
100 High Street, N.E.
Salem, OR 97031

Justice should not only be done, but should manifestly and undoubtedly be seen to be done.
R v Sussex Justices, ex parte McCarthy ([1924] 1 KB 256, [1923] All ER Rep 233

Dear Judge Hart:

On June 3, I wrote to you asking permission to attend a June 11 status conference in your office. On June 5 you telephoned me and explained I would not be able to attend, and that the status conference concerned the readiness of each side for trial. You told me you were not familiar with the facts of the case, and did not want to be: You wanted to preserve your impartiality so that you were not prejudiced in favor of either side when the trial was held – it was at the trial that the facts would be determined.

Now I write out of concern. I have listened to a recording of the bail hearing of November 26. During the hearing, you spoke clearly: *You said you knew the facts of the case.* And then you refused to lower Ketchem's bail from \$1 million.

The facts of the case? Certainly you know what the District Attorney is charging, but prosecutors famously lie. Many of the important facts concerning the Summer Street incident are publicly available and verifiable. I enclose a copy of the *Everyone's Business* news article, "The Siege on Summer Street." Please consider that print-out an integral part of this letter.

We can surely agree that Mr. Ketchem should be held accountable for what he did. But should he be held accountable for what he could not possibly have done? The house at 1050 Summer Street NE was in renovation for eight (8) months because the renovators could not get rid of the stench of tear gas, courtesy of the SWAT Team. And flash bangs are notoriously incendiary. (See our 24 March letter to Chief of Police for citations.)

Concerning the witness who was present in the courtroom on November 26. I believe he was the Capitol St. homeowner ("Cowboy") who found Ketchem in his garage and threatened him with a gun. When Ketchem ran off, Cowboy chased him brandishing the gun – even though neither Cowboy nor any of his property was in danger. Ketchem ran down the alley that connects Capitol and Summer Streets with Cowboy chasing after him. In many jurisdictions, Cowboy's actions would be considered vigilantism and assault, (criminal acts) and perhaps

even a sign of mental imbalance. But when Cowboy testified on November 26, you did not mention any of that, nor, apparently, did you put him under oath. It also seems that Cowboy was allowed to speak for his neighbors' fear of Ketchem – surely that testimony was pure hearsay?

By the way, I understand there are witnesses to Cowboy's armed pursuit of Ketchem.

You know that Lt. Shawn Adams, commander of Salem's SWAT team, made a statement to the Grant Neighborhood Association on April 4, 2019. He said that the Salem Police believed Ketchem fired a gun. That belief triggered SWAT team deployment. Yet no gun was found on Ketchem, nor in the home, after the incident. It is clear that the Salem Police no longer believe Ketchem fired a gun. (Perhaps the gun was fired by Cowboy?)

You know that the District Attorney is demanding that Ketchem accept a plea bargain to a 90-month sentence and that if he refuses, the District Attorney will demand a sentence of 15 to 18 years in prison if he loses the trial.

I have been a courtroom observer during arraignments. If the accused is accepting a plea bargain, the judge asks if he has been threatened or promised anything in exchange for the bargain. The accused usually looks at the floor and says "No." The judge endorses the deal. Of course everyone in the courtroom knows what a plea bargain is, and how it is done. So the judge, the accused, and the prosecutor conspire in the lie. And courtroom observers see it all happening.

Whatever happened to "the truth, the whole truth, and nothing but the truth"? Whatever happened to the right to a speedy trial, prohibition of excessive bail, and prohibition against being forced to testify against oneself?

Is in any wonder that respect for our system of justice and law enforcement is in a downward spiral? We need to have respect for our system of justice and law enforcement. Call it prosecutorial overreach, prosecutorial misconduct, or just plain lying, judges should not tolerate it.

"Justice should not only be done, but should manifestly and undoubtedly be seen to be done."

Sincerely,

s/ Carol DeCoursey

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