

STATEMENT OF FLETCHER LONG, JR.

I do not normally comment on the orders of Judges further than to say, whether I agree or disagree doesn't matter. The reason I do not do that is because I owe deference to the Courts. Since neither Todd Murray nor I, were given any opportunity to defend ourselves against the innuendo contained in Judge Simes' order, I will do it here. There is no proof before the Court of any misconduct by either me or Mr. Murray. This is the first time I have seen a court order based solely on facts and innuendoes reported in a newspaper article. This may be consistent with some systems of jurisprudence, but thankfully not ours. As a matter of fact, I have heard our circuit judges instruct juries many times, that they are to disregard anything about the case that they may have read in the newspapers. Newspapers indulge innuendo, courts shouldn't.

In this case, Todd Murray and I made the decision to dismiss a capital murder charge against a defendant because we could not in good conscience pursue it based on the evidence that we had at hand. We appeared before the Court with the defendant and defense counsel present and stated in open court that we could not in good conscience proceed and moved to nolle pros the case. That action was in accordance with the dictates of our consciences and also in accordance with the mandate of the American Bar Associations standards for prosecutors. Those standards provide that it is the duty of a prosecutor to seek justice not merely to convict. The standards go on to say that if a prosecutor has doubts about the sufficiency of the evidence to support a proper conviction he should not pursue the charge. These are the reasons that we nolle prosed this case.

Judge Simes has entered an order removing Todd Murray and I as prosecutors in this case and appointing a special prosecutor. According to Arkansas law, there are three usual bases for disqualifying a prosecutor, they are: that the prosecutor is under some disability and is unable to proceed; that the prosecutor has a conflict of interest in the case; or that the prosecutor has refused to do his job. None of these are the case here. At all times, Mr. Murray and I were present, able, and ready to do our jobs, and it was in conformity with our jobs, as we understand them, that we took the action which we did. The court order makes some reference to Supreme Court language giving authority to a trial judge to appoint a special prosecutor when the regular prosecutor is under investigation. I now read, and have always read that language to mean that a special prosecutor may be appointed in a situation where the prosecutor himself is under investigation for a crime, and a special prosecutor will have the purpose of pursuing that investigation and filing those charges should it be necessary.

The Order states that Mr. Murray and I are under investigation, based on articles appearing in the Arkansas Democrat Gazette in connection with the Delta Blues investigation. Though I do not know, I suspect that we were investigated in connection with that operation, and I suspect, as well, that so was every other deputy prosecutor in the district as well as all circuit judges and the two district judges in Phillips County. I hasten to point out that I have no proof or evidence that any of this is true. Whether this is true or not true, neither any of the circuit judges nor I, nor Mr. Murray, are disqualified by reason of such investigation.

The Court writes at some length about the Democrat Gazette series of articles about the justice system in Phillips County and quotes from those articles generally and

specifically. In the order, the Court speaks of the case of Cedric Tice, who had been sentenced by the Court to 20 years in the Department of Corrections, the Court neglects to mention that Mr. Murray was the prosecuting attorney who brought the petition in court that sent Mr. Tice to the Department of Corrections. The Court complains, and should, about the fact that the defendant was released and was in and out of jail subsequent to his sentencing. Neither I nor Mr. Murray had anything to do with the Defendant's release, or with the fact that he was allowed to stay free, anymore than the Court did. The Court makes reference to certain wire tap evidence purportedly in the hands of the government wherein a defendant by the name of Webb made the statement that his father paid hundreds of thousands of dollars to get the cases against him and his sister dismissed. I do not know that there is any factual bases for these statements, I do know that there has been no proof or testimony presented anywhere even alleging that Todd Murray or I had anything to do with any such transaction. I know that to suppose that we did is contrary to American jurisprudence. If given an opportunity to be heard, I would have said and Mr. Murray would have said categorically that nothing of the sort ever happened. The Court quoting from the newspaper article expresses concern about the cases that were nolle prosequed in Phillips County, Arkansas. Each of those cases was nolle prosequed in open court with the judge sitting on the bench, and in most cases whether the judge asked or not, the justification for nolle prosequed was given. Certainly, if the judge had any question about it, he would have asked. This is one of the general accusations about cases without referring to any case in specific. It is impossible to answer. Criminal cases are about specific people and specific facts, not just generalities.

The next case the Court mentions is the case of a witness in a federal court who alleged while he was testifying there that he had paid Todd Murray \$30,000.00 under the table in a cashier's check. The interesting thing about that allegation is that Mr. Coleman alleges that he paid Todd in the form of a cashier's check. If that were true, there would be a bank record of the cashier's check and that proof would have been forthcoming. It has not and it will not. Judge Simes expresses his dismay about the fact that this particular case has been continued for up to three years. The Prosecution did not request any of the continuances. Nor did the State of Arkansas grant any of them. That would have been at the discretion of the trial judge. Also, the court expresses discouragement about the criminal justice system in Phillips County and the First Judicial District as a whole. I have from time to time felt some discouragement about that matter myself. I am not a judge, I do not preside in a courtroom, and I do not have the authority to decide how things will be run.

Finally, none of these allegations have anything to do with the case before the court.