

IN THE CIRCUIT COURT OF MAYCOMB COUNTY, ALABAMA

STATE OF ALABAMA,

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v.

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Case No. CC-00-0000

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JOE CLIENT.

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**MOTION TO HOLD THE DISTRICT ATTORNEY  
IN CONTEMPT OF COURT**

Joe Client respectfully moves the Court to hold the District Attorney in contempt of court for making extrajudicial comments to the press that she knew or reasonably should have known would prejudice Mr. Client’s rights to due process and a fair trial by an impartial jury. In support of this motion, Mr. Client submits the following:

1. Mr. Client has been charged with capital murder and the State is seeking the death penalty.

2. On March 1, 2017, Mr. Client filed a Motion to Prohibit Trial Participants from Commenting on or Releasing Information about the Case to the Press. This Court granted the motion and, on March 3, 2017, issued an order prohibiting attorneys from making prejudicial extrajudicial comments to the public.

3. In the March 22, 2017, Maycomb Times, staff writer and reporter Julie Adams quoted District Attorney Brown, who told her that an unidentified witness would testify at the trial of Mr. Client and that she would testify that Mr. Client told her that he planned to “teach [the victims] a lesson,” and that he had purchased a new gun for this purpose. “Witness Will Testify That Client Plotted Revenge,” Maycomb Times, Jan. 22, 2017, at A1.

4. The article also reported that District Attorney Brown would not disclose the witness’s identity because she feared for her life. Brown was quoted saying that the witness “reasonably feared Mr. Client — he is obviously someone who will exact revenge if he can. And we’re going to ask the jury to make sure he never has that opportunity again.” Id.

5. The District Attorney’s comments to the press revealed information that was not public knowledge. The identity of, as well as the likely testimony of, the State’s witnesses has not been the subject of any court proceeding that has been open to the public. Nor was this information disclosed in any unsealed document.

6. “The fundamental respect for humanity” underlying the Eighth Amendment’s prohibition against cruel and unusual punishment gives rise to a special need for reliability in determining whether the death penalty is appropriate. Johnson v. Mississippi, 486 U.S. 578, 584 (1988); see also Ex parte Monk, 557 So. 2d 832, 836-37 (Ala. 1989) (death penalty is “special circumstance” that justifies expansion of constitutional rights). The opinions of the District Attorney and other state officials about the defendant’s guilt and the appropriateness of the death penalty are clearly prejudicial. Berger v. United States, 295 U.S. 78 (1935); Brooks v. Kemp, 762 F.2d 1383, 1408 (11th Cir. 1985), vacated on other grounds, 478 U.S. 1016 (1986); Quinlivan v. State, 579 So. 2d 1386 (Ala. Crim. App. 1991).

7. The District Attorney’s comments to the media defy this Court’s order; violate Alabama Rule of Professional Conduct 3.6, which prohibits lawyers from making any statement likely to be disseminated publicly if “the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding”; and infringe Mr. Client’s rights to due process, trial by a fair and impartial jury, effective assistance of counsel, confrontation, a jury selected from a fair cross-section of the community, and a reliable sentencing determination as guaranteed by the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Alabama law.

8. Pursuant to Alabama Rule of Criminal Procedure 33 and Alabama Code sections 12-1-8 through 12-1-10, District Attorney Brown should be held in contempt of court. This Court entered an order specifically prohibiting attorneys from making extrajudicial comments about the case. District Attorney Brown has very clearly violated this Court’s order.

For these reasons, Mr. Client respectfully requests that this Court hold District Attorney Brown in contempt of Court for violating this Court’s March 3, 2012, Order.

Respectfully submitted,

/s/ Linda Lawyer

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[CERTIFICATE OF SERVICE]

**[MOTION UPDATED ON 10/05/17]**