

STATE OF LOUISIANA

NO. 18-K-735

VERSUS

FIFTH CIRCUIT

BLAISE GRAVOIS

COURT OF APPEAL

STATE OF LOUISIANA

February 27, 2019

Mary E. Legnon
Chief Deputy Clerk

IN RE BLAISE GRAVOIS

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-THIRD JUDICIAL DISTRICT COURT, PARISH OF ST JAMES, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE KATHERINE TESS STROMBERG, DIVISION "C", NUMBER 75,22

Panel composed of Judges Marc E. Johnson,
Robert A. Chaisson, and Stephen J. Windhorst

**WRIT GRANTED; JUDGMENT DENYING MOTION TO RECUSE
VACATED; MATTER REMANDED FOR HEARING**

In his writ application, relator, Blaise Gravois, seeks review of the trial court's denial of his motion to recuse the 23rd Judicial District Attorney's Office.

On April 17, 2018, relator filed a "Motion and Incorporated Memorandum to Recuse the District Attorney's Office" in light of this Court's appellate opinion affirming the finding of prosecutorial misconduct in the State's case against him based on obvious conflicts of interest.¹ In further support of his motion to recuse, relator asserted that Assistant District Attorney Charles Long began working as the legal advisor to St. James Parish Government while simultaneously spearheading the grand jury investigation of Mr. Gravois. In addition, relator stated that several employees of the District Attorney's Office, including Mr. Long and Assistant District Attorney Bruce Mohon, will be called as witnesses at trial.

¹ See *State v. Gravois*, 17-341 (La. App. 5 Cir. 12/13/17), 234 So.3d 1151, writs denied, 18-100 (La. 3/23/18), 239 So.3d 292 and 18-80 (La. 3/23/18), 239 So.3d 298.

After conducting a hearing on the matter, during which numerous witnesses were called to testify, the trial court denied relator's motion to recuse the District Attorney's Office, providing lengthy written reasons. In part, the trial court found that this Court's December 13, 2017 decision did not call for the recusal of the District Attorney's Office, that any conflict of interest or prosecutorial misconduct that would warrant the recusal of Mr. Mohon did not warrant the recusal of the District Attorney Ricky Babin or the other assistant district attorneys, and that Mr. Long did not represent the St. James Parish Council during the pendency of the grand jury proceedings against Mr. Gravois. In addition, the trial court found that "there is no personal interest in the cause or grand jury proceeding which is in conflict with fair and impartial administration of justice under C.Cr.P. Art. 680," that "there is nothing in the record to suggest any personal or political confrontations between Defendant, and Mr. Long," and that "the granting of the State's Motion in Limine precluding Defendant from introducing evidence of work on properties outside of the ones mentioned in the bill of indictment moots the issue of whether Mr. Long and Mr. Mohon being called as witnesses at trial calls for recusal under Article 680."

Relator now seeks review of the trial court's denial of his motion to recuse the District Attorney's Office. He argues that Judge Stromberg abused her discretion in finding that the recusal of the District Attorney's Office was not warranted, given that office's dual representation of the Parish Council and the State, which he contends is an obvious conflict of interest. Second, relator asserts that Judge Stromberg abused her discretion in denying the motion to recuse, where numerous employees of the District Attorney's Office could potentially be material witnesses, including the District Attorney himself, supplying crucial information that could exculpate him. Third, relator maintains that Judge Stromberg abused her discretion in ignoring evidence wherein the District Attorney's Office already

indicated it had irreconcilable conflicts precluding its involvement in the instant case. Fourth, relator contends that Judge Stromberg abused her discretion in holding that the District Attorney's Office did not have a personal interest and/or personal bias that warranted recusal in the instant matter.

La. C.Cr.P. art. 680 provides the grounds for recusation of a district attorney as follows:

A district attorney shall be recused when he:

- (1) Has a personal interest in the cause or grand jury proceeding which is in conflict with fair and impartial administration of justice;
- (2) Is related to the party accused or to the party injured, or to the spouse of the accused or party injured, or to a party who is a focus of a grand jury investigation, to such an extent that it may appreciably influence him in the performance of the duties of his office; or
- (3) Has been employed or consulted in the case as attorney for the defendant before his election or appointment as district attorney.

A defendant attempting to recuse a district attorney on the basis of a personal interest in the cause which is in conflict with the fair and impartial administration of justice bears the burden of showing this ground for recusal by a preponderance of the evidence. *State v. King*, 06-2383 (La. 4/27/07), 956 So.2d 562, 565; *State v. Gatewood*, 12-281 (La. App. 5 Cir. 10/30/12), 103 So.3d 627, 636. This standard of proof is applicable for disqualification of an assistant district attorney, but the grounds for disqualification are not necessarily restricted to the statutory grounds to recuse a district attorney as set forth in La. C.Cr.P. art. 680. *State v. Guidroz*, 98-377 (La. App. 5 Cir. 10/14/98), 721 So.2d 480, 485, *writ denied*, 98-2874 (La. 2/26/99), 738 So.2d 1061.

In the present case, the trial court's denial of the motion to recuse the District Attorney's Office was based, in part, on its finding that "the granting of the State's Motion in Limine precluding Defendant from introducing work on

properties outside of the ones mentioned in the bill of indictment moots the issue of whether Mr. Long and Mr. Mohon being called as witnesses at trial calls for recusal under Article 680.” In *State v. Gravois*, 18-739 (La. App. 5 Cir. 2/26/19) (unpublished writ disposition), this Court found that the trial court abused its discretion in this evidentiary ruling. Accordingly, we find it necessary to vacate the trial court judgment denying the motion to recuse the District Attorney’s Office and remand the matter to the district court to reopen the hearing on the motion to recuse to give defendant an opportunity to prove, not merely allege, that a recusation is warranted under La. C.Cr.P. art. 680 in light of this Court’s decision in Writ Number 18-739, which opens the possibility that employees from the District Attorney’s Office may be called as witnesses at trial.

Based on the foregoing, this writ is granted, the judgment denying the motion to recuse the District Attorney’s Office is vacated, and the matter is remanded for further hearing.

Gretna, Louisiana, this 27th day of February, 2019.

RAC
MEJ
SJW

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
ROBERT A. CHAISSON
STEPHEN J. WINDHORST
HANS J. LILJEBERG
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JUDGES



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NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **02/27/2019** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY

A handwritten signature in blue ink, appearing to read "Cheryl Q. Landrieu". The signature is written in a cursive style and is positioned above a horizontal line.

CHERYL Q. LANDRIEU
CLERK OF COURT

18-K-735

E-NOTIFIED

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