

FILED

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

2016 FEB 16 P 5:10

CLERK OF COURTS
CUYAHOGA COUNTY

IN RE:)	JUDGE JOHN J. RUSSO
)	ADMINISTRATIVE JUDGE
INVESTIGATION INTO)	
DEATH OF TANISHA)	
ANDERSON)	<u>MOTION FOR APPOINTMENT OF A</u>
)	<u>SPECIAL PROSECUTOR</u>
)	

Now comes the State of Ohio, by and through the undersigned assistant to Cuyahoga County Prosecutor Timothy J. McGinty, and respectfully moves this Honorable Court for the appointment of a special prosecutor in this investigation. It is requested that the Court appoint Mike DeWine, Ohio Attorney General, and any assistant attorney general in his office that he designates as Special Prosecuting Attorney, as Special Prosecutor, and that the Office of the Ohio Attorney General be authorized to utilize the support staff of the Cuyahoga County Prosecutor's Office for preparation of documents, service of subpoenas, and other matters relating to this case. The Special Prosecuting Attorney shall serve without compensation by Cuyahoga County.

The appointment of Special Prosecutor is needed in that a *Brady/Garrity* issue has arisen in this investigation creating a conflict of interest involving the Cuyahoga County Prosecutor's Office. The Court of Common Pleas, under its inherent power and authority, may appoint a special prosecutor whenever it comes to the Court's attention that the ability to administer justice in a fair and impartial manner could be called into question. These circumstances exist when a conflict, or the appearance

of a conflict, of interest between the parties in a criminal matter exists. Where a Special Prosecutor is appointed under the Court's inherent authority, the Special Prosecutor acts independently of the duly elected Prosecutor.

WHEREFORE, the State of Ohio State respectfully requests this Honorable Court appoint Mike DeWine, Ohio Attorney General, and any assistant attorney general in his office that he designates as Special Prosecuting Attorney, as Special Prosecutor with the same power and authority granted to the Cuyahoga County Prosecutor in the above-captioned matter. A proposed Order is attached hereto for the Court's convenience.

Respectfully submitted,

TIMOTHY J. McGINTY
CUYAHOGA COUNTY PROSECUTOR

/s/ Mary McGrath
MARY McGRATH (#0041381)
Assistant Prosecuting Attorney
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Cleveland, Ohio 44113
(216) 443-7800

CERTIFICATE OF SERVICE

A copy of the foregoing State's Request for Appointment of a Special Prosecutor has been sent by regular U.S. Mail and/or e-mail this 16th day of February, 2016 to Mike DeWine, Ohio Attorney General.

/s/ Mary McGrath
MARY McGRATH (#0041381)
Assistant Prosecuting Attorney