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9 JEREMY JONATHAN WHITE

10  
11 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 IN AND FOR THE COUNTY OF SAN DIEGO

13 PEOPLE OF THE STATE OF CALIFORNIA,

No. SCD274477

14 Plaintiff,

**JOINT REPLY TO DISTRICT  
ATTORNEY'S AND ATTORNEY  
GENERAL'S OPPOSITION TO  
MOTION TO DISQUALIFY THE  
SAN DIEGO COUNTY DISTRICT  
ATTORNEY'S OFFICE**

15 v.

16 JEREMY JONATHAN WHITE,

**[California Penal Code § 1424]**

17 Defendant.

Date: November 17, 2023  
Time: 9 am  
Dept.: 1901

18  
19 INTRODUCTION AND SUMMARY OF DEFENSE POSITION

20 Summer Stephan has turned a blind eye to political violence committed by right-wing  
21 actors connected to her campaign and to the San Diego GOP political machine. Mr. White is  
22 entitled to a fair and impartial trial, and this includes motion hearings. The District Attorney's  
23 Opposition motion (hereinafter "DA Opposition") is the best evidence yet that her office will  
24 not give Mr. White a fair and impartial hearing, let alone a fair trial.

25 First, the attorney who wrote the DA Opposition endorsed Summer Stephan through the  
26 San Diegans Against Crime (SDAC) political action committee.<sup>1</sup> The drafter endorsed

27  
28  

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<sup>1</sup> According to the San Deigo County public portal for researching political donations @  
[https://www.southtechhosting.com/SanDiegoCounty/CampaignDocsWebRetrieval/Search/SearchByAd  
vanced.aspx](https://www.southtechhosting.com/SanDiegoCounty/CampaignDocsWebRetrieval/Search/SearchByAdvanced.aspx), Mr. Doyle made financial contributions to SDAC every year that they endorsed Summer  
Stephan on their website. As previously addressed in the Motion to Disqualify and exhibits SDAC's  
main endorsee is Summer Stephan. Doyle's contributions were annually between \$250-\$500 per year

1 Stephan by contributing payments and participating in SDAC from 2018 to the present,  
2 including when Stephan launched her campaign using the Soros/antifa attack ads leading up to  
3 the 2018 election, and the present. Thus, the drafter of the motion is not impartial. He has  
4 both a political interest and a financial investment in Summer Stephan.

5 Second, bad faith litigation is a factor that may be considered in assessing whether  
6 disqualification is necessary. (See *People v. Superior Court (Humberto S.)* (2008) 43 Cal.4th  
7 737, 747 [“... the persistent, bad faith use of litigation tactics lawful in and of themselves  
8 might in some circumstances evidence an underlying conflict that renders a fair trial unlikely  
9 and warrants recusal...”].) The DA Opposition makes numerous mischaracterizations of the  
10 objective truth, misstates counsel’s printed words, makes false claims about whether counsel  
11 cited adverse authority (while ironically failing to cite adverse law and regulations in accusing  
12 counsel of violating State Bar Rules of Professional Conduct), and makes ad hominem attacks  
13 on Mr. White and his counsel. (See *People v. Bell* (1989) 49 Cal.3d 502, 538, internal citations  
14 omitted [“Although prosecutors have broad discretion in discussing the legal and factual merits  
15 of a case, it is improper to misstate the law or to resort to personal attacks on the integrity of  
16 opposing counsel.”].) Prosecutors are held to a higher standard and the DA Opposition falls  
17 short of the standard for a public official.

18 Thirdly, the DA Opposition offers no answer for the specific claim that their office is  
19 prosecuting only anti-fascists while those on the extreme right (e.g., members of The American  
20 Guard, Proud Boys, and Defend East County) are not being prosecuted for their criminal  
21 violence on January 9, 2021. The District Attorney’s Office has no answer for why they did  
22 not play C.B.’s entire livestream to the grand jury and why they portrayed him as a victim  
23 when he was not. They have no answer for why they failed to prosecute the alley attack. They  
24 have no answer for why they did not prosecute Chad Alvarez for throwing a smoke grenade  
25 towards anti-fascists.

26 Finally, the Attorney General’s Opposition raises the same unpersuasive arguments  
27 about affidavits as they did in the trial and appellate courts in *People v. Lastra*. The Attorney  
28 General also claims that there is no evidence to support Mr. White’s position but fails to  
recognize the evidence exists and that the prosecution concedes that they generally discussed

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varying from year to year. SDAC donated \$5,000 to Stephan’s campaign to reelect her in January of  
2023, and another \$1000 towards Stephan’s 2028 campaign.

1 this information with the grand jury as *Johnson* material. They also categorize media articles  
2 as “opinion pieces” but fail to recognize that they contain statements by actual crime victims  
3 who could not convince Summer Stephan to prosecute their far-right assailants, and who have  
4 been for years terrified by her lack of action.

5  
6 **I. ISSUES PRESENTED**

7 Mr. White respectfully requests that the Court consider the following issues in  
8 evaluating whether Summer Stephan has an actual conflict of interest:

- 9  
10 1) Does antifa have a distinct political ideology that opposes Summer Stephan's?  
11 2) Did Summer Stephan target antifa as part of her political platform?  
12 3) During the election, or at other times, did Stephan make public claims about  
13 antifa that were inflammatory and/or exaggerated?  
14 4) In the underlying prosecution, were similar crimes committed by antifa’s  
15 ideological opponents (Stephan’s ideological allies) that were serious, violent,  
16 and provocative?  
17  
18 5) Were similar crimes by Stephan’s allies ignored by Stephan notwithstanding her  
19 review of abundantly documented video and audio evidence?

20  
21 Mr. White further requests that the Court consider the following in analyzing whether  
22 there is an office-wide conflict of interest.

- 23  
24 1) Have all or substantially all prosecutors in San Diego County participated in a  
25 political endorsement of Summer Stephan? Did they offer a political endorsement  
26 during the time period when she made inflammatory or exaggerated statements  
27 about antifa?  
28 2) Have the line prosecutors in this case been involved in raising money for Summer  
Stephan’s 2018 campaign, and have they been involved in subsequent donations  
to Stephan through San Diegans Against Crime? Have the line prosecutors  
participated in political endorsements through SDAC?

- 1           3) Has there been communication between Summer Stephan and line prosecutors  
2 directing expectations in plea discussions, and to what extent have there been  
3 additional communications?
- 4           4) Is Summer Stephan’s input significant in the trajectory of a prosecutor’s career,  
5 including but not limited to, the type of cases which they are assigned?

6           **II. ARGUMENT**

7           **A. The District Attorney’s Opposition Motion Amounts to Bad Faith Litigation**  
8           **Tactics Which Should Be Considered in Assessing the Office-Wide Conflict of**  
9           **Interest pursuant to *People v. Superior Court (Humberto S.) (2008) 43 Cal.4th 737***

10          The following are examples of the prosecution’s bad faith in their Opposition:

- 11           1) Accusing counsel of violating Rule of Professional Conduct 3.6, paragraph (a) but  
12 failing to include for the Court the complete rule, specifically 3.6 (b) and (c) which  
13 permit extrajudicial discussions with the media in these circumstances.
- 14           2) Falsely claiming that counsel did not cite contrary authority, misrepresented case  
15 holdings, and failed to articulate the “higher standard” for an office-wide recusal.
- 16           3) Ad hominem attacks on counsel’s status for, of all things, being from “out of  
17 town.”<sup>2</sup>

18          The below arguments are not intended as a defense to the allegations of misconduct in  
19 the DA Opposition but are raised to show how far from fair and impartial the prosecution is  
20 when addressing Mr. White and his counsel’s legal positions, and their "out-of-town" status.<sup>3</sup>

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25          <sup>2</sup> This is one of the more bizarre statements in the DA Opposition. The implications are that the  
26 law is somehow applied differently in San Diego and that notions of fairness in prosecution have a  
27 geographical element. Even though San Diego County is an amazing place, local pride should be the  
28 furthest consideration when it comes to holding a prosecutor to their duty of fairness and candor, and  
the prosecution should know that. In the context of the prosecution not being able to explain their lack  
of charges against the extreme right on January 9, 2021, this statement is further evidence that the  
prosecution will not give Mr. White a fair and impartial hearing, or trial.

<sup>3</sup> “We do not ascribe much credit to assertions made by out-of-town defendants and their out-  
of-town attorneys about our community.” (Opposition, at p. 5.) Statements about Mr. White being from  
out of town are absolute bias.

1 i. Bad Faith Example One—Failing to Cite Contrary Authority of Rule of  
2 Professional Conduct 3.6, Paragraphs (b) and (c) and *Gentile v. State Bar of*  
3 *Nevada*

4 One such false claim by Summer Stephan’s office is that the defense filing motions and  
5 engaging with the press in this case is improper under Rules of Professional Conduct 3.6,  
6 paragraph (a) (Trial Publicity). (DA Opposition, at p. 3, 14.) This rule states: “(a) A lawyer  
7 who is participating or has participated in the investigation or litigation of a matter shall not  
8 make an extrajudicial statement that the lawyer knows or reasonably should know\* will (i) be  
9 disseminated by means of public communication and (ii) have a substantial\* likelihood of  
10 materially prejudicing an adjudicative proceeding in the matter.” (Rules of Prof. Conduct, Rule  
11 3.6(a).)

12 However, the prosecution intentionally ignores paragraphs (b) and (c) of the same rule  
13 which contain the exceptions to paragraph (a).<sup>4</sup> Incredibly, the prosecution fails to  
14 acknowledge that, notwithstanding the rule set forth in paragraph (a), a lawyer may state: “a  
15 warning of danger concerning the behavior of a person\* involved, when there is reason to  
16 believe\* that there exists the likelihood of substantial\* harm to an individual or to the public  
17 but only to the extent that dissemination by public communication is reasonably\* necessary to  
18 protect the individual or the public...” (Rules of Prof. Conduct, Rule 3.6(b)(6).)

19 Here, the District Attorney’s Office does not yet grasp the gravity of their charging  
20 decisions, or rather, lack thereof. A band of violent right-wing extremists continues to assault  
21 innocent people at political protests in San Diego County with impunity; the public needs to be  
22 aware that Summer Stephan will not prosecute these bad actors, so they can avoid them when  
23 they encounter them at protests. These are not just legal arguments for Mr. White, but an  
24 attempt to maintain safety in the community.

25 Furthermore, Rule 3.6, paragraph (c) states: “Notwithstanding paragraph (a), a lawyer  
26 may make a statement that a reasonable\* lawyer would believe\* is required to protect a client  
27 from the substantial\* undue prejudicial effect of recent publicity not initiated by the lawyer or  
28 the lawyer’s client. A statement made pursuant to this paragraph shall be limited to such

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<sup>4</sup> See Cal. Rules of Prof. Conduct, rule 3.3(a)(2) “A lawyer shall not: fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client.” No mention is made of the exceptions to Rule 3.6, paragraph (a).

1 information as is necessary to mitigate the recent adverse publicity. (Cal Rules of Prof.  
2 Conduct, Rule 3.6.)

3 To this end, first, the District Attorney’s Office issued a press release on December 6,  
4 2021 that was extremely prejudicial to Mr. White.<sup>5</sup> Summer Stephan issued a press release  
5 titled: “DA Charges Defendants Responsible for Violent Pacific Beach Incident.”<sup>6</sup> The press  
6 release describes specific acts of violence allegedly committed by the antifa defendants,  
7 including allegations of violence on “collateral victims” such as “a dog that was maced, a  
8 journalist attempting to take photos, a business that was vandalized, and assaults on police  
9 officers.” Statements like this, which were not initiated by counsel, are designed to create a  
10 prejudicial effect on the jury pool and they very likely have. The press release further states:  
11 **“Video evidence analysis shows that overwhelmingly the violence in this incident was**  
12 **perpetrated by the Antifa affiliates and was not a mutual fray with both sides crossing**  
13 **out of lawful First Amendment expression into riot and violence.”<sup>7</sup> (See *Hollywood v.*  
14 *Superior Court* (2008) 43 Cal.4th 721, 732, internal citation omitted [“While the prosecution  
15 ethically may discuss information necessary to aid in the apprehension of fugitives, its freedom  
16 to do so is not without limits. Certainly, a case might arise in which a trial court could order  
17 recusal based on the prosecution's attempt to manipulate the prospective jury pool by  
18 disseminating inflammatory portrayals of the defendant.”].)**

19 Subsequently, a specific member of the prosecution team released information to two  
20 members of the media, one of them also revealing Mr. White’s address. Mr. White has been  
21 doxed, harassed, and threatened by people who have come to his home. He was even attacked  
22 for the false claim that he engaged in cruelty to animals.

23 “An attorney's duties do not begin inside the courtroom door. He  
24 or she cannot ignore the practical implications of a legal  
25 proceeding for the client. Just as an attorney may recommend a  
26 plea bargain or civil settlement to avoid the adverse consequences

27  
28 <sup>5</sup> This press release establishes the falsity of the prosecution’s assertion that “it is completely impossible to find that any comments the San Diego County District Attorney made in 2018 were tied to ‘contemporaneous prosecutorial decisions’ occurring in 2021 and beyond.” (DA Opposition, at p. 12.)

<sup>6</sup> See **Exhibit A** - December 6, 2021 Press Release.

<sup>7</sup> *Id.*

1 of a possible loss after trial, so too an attorney may take reasonable  
2 steps to defend a client's reputation and reduce the adverse  
3 consequences of indictment, especially in the face of a prosecution  
4 deemed unjust or commenced with improper motives. **A defense  
5 attorney may pursue lawful strategies to obtain dismissal of an  
6 indictment or reduction of charges, including an attempt to  
7 demonstrate in the court of public opinion that the client does  
8 not deserve to be tried.**”

9 (*Gentile v. State Bar of Nevada* (1991) 501 U.S. 1030, 1043.)

10 Counsel is complying with his ethical duty to protect Mr. White from the prejudicial  
11 misinformation distributed in the public sphere by the District Attorney’s Office.

- 12 ii. Bad Faith Example Two and Three—Falsely claiming “defendant outright  
13 misrepresents holdings of the cases he cites” in *Choi* and *Eubanks* and  
14 misleading this Court about their holdings and analysis.

15 A prosecutor’s attention to detail is important because it impacts his or her credibility  
16 with the courts, the public and juries. Make enough of the same mistakes on easily verifiable  
17 information and there is a reasonable inference that it is not a mistake. The prosecution levies  
18 false accusations such as “defendant outright misrepresents holdings of the cases he cites.”  
19 (DA Opposition, at p. 8.)

20 Mr. White's motion cites *People v. Choi* (2000) 80 Cal.App.4th 476 as a case that  
21 “supports the proposition that a District Attorney’s personal or emotional involvement in a case  
22 will have a particularly strong tendency to imply extraneous motivation.” (Motion to  
23 Disqualify, at p. 50.) In referencing *Choi*, Mr. White’s motion states: “The First District Court  
24 of Appeal upheld the trial court’s order, finding that [the District Attorney’s] **statements to the  
25 press factored into the totality of the circumstances** that demonstrated his emotional  
26 involvement in the case prevented him from exercising the discretionary functions of his office  
27 in an evenhanded manner.” (Motion to Disqualify, at p. 50, emphasis added.)

28 The prosecution argues, “*People v. Choi* (2000) 80 Cal.App.4th 476, was not predicated  
on the District Attorney’s statements to the press about the defendant in that case, as the  
defendant’s motion *suggests*.” (DA Opposition, at p. 8.) First, claiming that Mr. White’s  
moving papers misrepresent holdings from appellate decisions based on what the prosecution  
believes the motion “suggests,” rather than what the motion states, is dishonest. Mr. White is  
not suggesting anything other than what is specifically stated in his moving papers. Second,

1 the holding in *Choi* was predicated precisely upon the District Attorney's statements to the  
2 press about the defendant in that case. (See *Choi, supra*, 80 Cal.App.4th at p. 479, emphasis  
3 added [“On December 7, 1998, defendants renewed their motion to recuse the entire district  
4 attorney's office. Defendants argued that **District Attorney Hallinan's recent comment in the**  
5 **San Francisco Chronicle** indicated that he believed that they [*As in The Defendants*] were  
6 involved in Natali’s homicide.”].)

7 The First District ultimately held: “While the court relied on the ex parte contact as  
8 tilting the balance in favor of granting the recusal order, **this factor in combination with the**  
9 **totality of the circumstances of District Attorney Hallinan's conduct** provides substantial  
10 evidence of the existence of a conflict of interest.” (*Choi, supra*, 80 Cal.App.4th at p. 483,  
11 emphasis added.) The totality of the circumstances centered mainly around the District  
12 Attorney’s statements to the press which were the subject of both the initial and subsequent  
13 motion to recuse his office. (*Id.*, at pp. 478-479.) In fact, in our case, the prosecution later  
14 admits in the DA Opposition that the District Attorney’s “statements to the press formed part  
15 of the evidence of a conflict...” (DA Opposition, at p. 9.) If the District Attorney’s statements  
16 to the press in *Choi* “formed part of the evidence of a conflict,” did they not factor into the  
17 totality of the circumstances that demonstrated the conflict?<sup>8</sup>

18 The prosecution also takes issue with Mr. Whites's argument that a conflict of interest  
19 arises when “private financial contributions are of a nature and magnitude likely to put the  
20 prosecutor's discretionary decision-making within the influence or control of an interested  
21 party.” (DA Opposition, at p. 9.) Rather than acknowledge that Mr. White is quoting from the  
22 California Supreme Court in *People v. Eubanks* (1996) 14 Cal.4th 580, at p. 595, and that his  
23 motion also describes the specific facts of *Eubanks* on page 50, the prosecution argues that Mr.  
24 White’s citation to the exact language of the California Supreme Court is somehow “highly  
25 misleading.” (DA Opposition, at p. 9.)

26 The prosecution next insincerely argues in reference to *Eubanks* that because the Santa  
27 Cruz County District Attorney’s Office dismissed the charges against the defendants after the  
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<sup>8</sup> Thus, here, Summer Stephan's targeted campaign against antifa, her statements to the press regarding unspecified movements behind rioters who piggybacked recent Black Lives Matter protests in La Mesa and elsewhere in San Diego County, and her press release, can and should be considered as a factor in assessing her conflict of interest.

1 appellate court heard oral arguments in that case, the California Supreme Court did not uphold  
2 the trial court's order disqualifying the District Attorney's Office. (DA Opposition, at p. 9.)  
3 The *Eubanks* decision held, “**We cannot say**, as a matter of law, that had **the trial court**  
4 addressed the second part of the *Conner* test—the gravity of the identified conflict—it **would**  
5 **have abused its discretion in finding the conflict so grave as to render fair treatment of**  
6 **the defendants in all stages of the criminal proceedings unlikely.**” (*Eubanks, supra*, 14  
7 Cal.4th at pp. 601-602, emphasis added.) The California Supreme certainly did not reverse the  
8 trial court’s disqualification order and, despite the late-stage dismissal by the DA, the court  
9 exercised its discretion to resolve the legal issues raised because they were “of continuing  
10 public interest and are likely to recur.” (*Id.*, at p. 584, n.2.) Thus, it is not exactly clear what  
11 the prosecution’s point is, outside of illustrating that Mr. White’s allegations have struck a  
12 chord with the prosecutor Summer Stephan assigned to write the DA Opposition.

- 13  
14 iii. Bad Faith Example Four—Falsely claiming defense counsel failed to inform the  
15 Court about a “higher” standard for recusing an entire prosecutor’s office, and  
16 failing to inform the Court that *Lastra* does not mention a “higher” standard.

17 The prosecution takes the patently false position that Mr. White’s motion fails to  
18 articulate the “higher” standard required to recuse an entire prosecutor’s office, with a footnote  
19 intimating that counsel unethically failed to disclose legal authority directly adverse to the  
20 position of a client. (DA Opposition, at p. 15., n. 8.). The “higher” standard that the  
21 prosecution refers to in “*Schumb and Pomar*” was articulated by the California Supreme Court  
22 in *People v. Vasquez* (2006) 39 Cal.4th 47, 57. (See *Schumb v. Superior Court* (2021) 64  
23 Cal.App.5th 973, 981, citing *People v. Bryant, Smith and Wheeler* (2014) 60 Cal.4th 335, 373  
24 (quoting *Vasquez, supra*, 39 Cal.4th at p. 57) [“If a defendant seeks to recuse an entire office,  
25 the record must demonstrate ‘that the conduct of any deputy district attorney assigned to the  
26 case, or of the office as a whole, would likely be influenced by the personal interest of the  
27 district attorney or an employee.’ ”]; see also, *People v. Pomar* (2023) 313 Cal.Rptr.3d 457,  
28 467, quoting *Vasquez, supra*, 39 Cal.4th at p. 57 [Recusal of an entire prosecuting office  
therefore requires a showing “that the conduct of any deputy district attorney assigned to the  
case, or of the office as a whole, would likely be influenced by the personal interest of the  
district attorney or an employee.”].)

1 This exact quote and this exact standard can be found on page 50 of Mr. White’s  
2 motion, which states: “Where the record on the recusal motion indicates that the conduct of  
3 any deputy district attorney assigned to the case, or of the office as a whole, would likely be  
4 influenced by the personal interest of the district attorney or an employee, the motion is  
5 properly granted.” (Motion to Disqualify, at p. 50.) Thus, not only are the cases with the  
6 appropriate standard cited in Mr. White’s moving papers (*Vasquez, Schumb, and Pomar*) but  
7 the standard is also quoted in its exact language. (Cf. *People v. Lastra* (2022) 83 Cal.App.5th  
8 816 [upholding the disqualification of the San Luis Obispo County District Attorney’s Office  
9 without reference to any “higher standard”].)

10 It is perplexing that Stephan’s office would levy allegations of ethical violations while  
11 committing those exact same ethical violations in their brief. Ultimately, the prosecution’s  
12 claims of ethical violations in the DA Opposition, which were levied in an effort to distract the  
13 Court from the issues at hand, are groundless bad faith litigation tactics. (See *People v. Bell*  
14 (1989) 49 Cal.3d 502, 538, internal citations omitted [“Although prosecutors have broad  
15 discretion in discussing the legal and factual merits of a case, it is improper to misstate the law  
16 or to resort to personal attacks on the integrity of opposing counsel.”].) Bad faith tactics such  
17 as this can be considered by this Court as a factor in assessing whether the District Attorney’s  
18 office has a conflict of interest. (See *People v. Superior Court (Humberto S.)* (2008) 43  
19 Cal.4th 737, 747 [“... the persistent, bad faith use of litigation tactics lawful in and of  
20 themselves might in some circumstances evidence an underlying conflict that renders a fair  
21 trial unlikely and warrants recusal...”].) False narratives about January 9<sup>th</sup>, hiding exculpatory  
22 information from the grand jury, failing to prosecute right-wing political violence, and being  
23 dishonest with this Court is now a persistent pattern of bad faith.

24 In a motion opposing disqualification of the San Diego County District Attorney’s  
25 Office based on an office-wide conflict of interest, an opposition motion comprised of false  
26 claims against the defendant and his “out-of-town” counsel are illustrative of the conflict of  
27 interest. The DA Opposition reads like a Summer Stephan campaign press release, further  
28 underscoring the political nature of this prosecution.

1           **B. The District Attorney’s Office Fails to Justify Why They Are Continuing to Ignore**  
2           **Violent Crimes Committed by Right-Wing Extremists on January 9, 2021.**

3           Disingenuously, the prosecution alleges that Mr. White has failed to establish a nexus  
4 between his allegations of a conflict of interest and his ability to receive a fair trial. (DA  
5 Opposition, at p. 13.) As Mr. White’s motion plainly states: “Exactly how Stephan’s conflict of  
6 interest makes it unlikely that the defendants will receive a fair trial in this case is illustrated by  
7 the numerous criminal acts perpetrated by right-wing extremists on January 9, 2021.” (Motion  
8 to Disqualify, at p. 28.) “The fact Stephan’s office not only chose to name these American  
9 Guard members as victims but also failed to disclose who they are, including their violent past,  
10 demonstrates that Stephan’s conflict of interest has permeated her entire office.<sup>9</sup> Further, the  
11 fact that the blatant criminal acts of right-wing extremists were not only ignored but instead  
12 denied in a carefully worded press release by Stephen’s office demonstrates that the defendants  
13 are unlikely to receive a fair trial.” (Motion to Disqualify, at p. 55.)

14           Perhaps it requires a simpler explanation for this District Attorney's Office. Summer  
15 Stephan’s office is hiding the fact that their alleged victims and witnesses are members of  
16 violent right-wing hate groups who came to the protest to incite violence, committed acts of  
17 violence, and have a history of doing so, yet they are not being prosecuted and instead are being  
18 shielded. Stephan’s office is hiding the truth from the public while lying about antifa being  
19 solely responsible for the violence on January 9, 2021. This makes it highly unlikely that the  
20 defendants in this case will receive a fair trial and impartial trial based on what actually  
21 occurred on January 9, 2021. A defendant should not be forced to uncover what the prosecution  
22 has taken great pains to hide, namely the violent crimes of his alleged victims that occurred  
23 during the event from which his charges arise. Defendants lack the resources to investigate and  
24 the power to prosecute crimes — only the District Attorney can do that. Hence, District  
25 Attorneys and their subordinates are required to exercise their prosecutorial discretion in an  
26 evenhanded manner.

27           Without explanation, aside from a disqualifying inability to see this case impartially, the  
28 District Attorney’s Office is failing to address the evidence of violence committed by right-  
wing extremists at the January 9, 2021 protest. Aside from citing the grand jury transcript

<sup>9</sup> See Exhibit E, affidavit from Tina Berg. Another affidavit from the defense investigator will be submitted at the hearing on this motion.

1 where the prosecution paid lip service to certain acts committed by unnamed right-wing  
2 extremists, without disclosing who the perpetrators actually are or the groups they are affiliated  
3 with, and only to avoid having the indictment set aside on section 995 review, the District  
4 Attorney's Office does not explain why they are failing to charge all parties equally here for the  
5 crimes committed.

6 Take, for example, the abundant video discovery regarding the alley attack. Six  
7 extreme-right hate group members can brutally attack an unarmed and non-violent barefoot man  
8 and woman who are trying to walk away from them. They can use a Trump flag on a pole to  
9 beat the man while saying "Fuck your no justice no peace bullshit" while he is defenseless on  
10 the ground. They can spit in the man's face. They can taunt him after the fact saying, "Your  
11 nose is broken" and they can add humiliation by saying to his female partner, "You pissed your  
12 pants, Bitch." They can shout "Fuck Antifa" after the attack. They can then upload their own  
13 recordings to public social media. They have a free pass under Stephan. Yet, when Jeremy  
14 White was standing a couple of blocks away and pepper sprayed a large rottweiler that lunged at  
15 him, the grand jury was asked to return charges for animal cruelty. In Summer Stephan's eyes,  
16 a vicious dog is entitled to a fair trial but an anti-fascist is not.

17 In addition to every other specific act of violence that was supported by video and  
18 photographic evidence in Mr. White's motion, the DA Opposition fails to justify the lack of  
19 charges as to C.B. (See Motion to Disqualify, at p. 7, n.2.) C.B. livestreamed himself,  
20 provoking fights. At one point, C.B. is depicted getting into an argument with some young  
21 people on skateboards. A police officer tells him to stop before C.B. gets the officer into a  
22 fight. The officer drives away and C.B. falsely tells his audience that the skateboarders tried to  
23 attack him despite his own body camera recording contradicting his narrative. C.B. brandishes  
24 a knife on his livestream and says, "They were all pissed off because I had this in my hand."  
25 (Livestream recording in discovery at 1:16:27.) Even the general public felt threatened, as  
26 evidenced by the 911 report of a man brandishing a knife on his livestream.<sup>10</sup>

27 A few minutes later, C.B. instigates a fight with uncharged individuals and gets the  
28 upper hand. As seen in the attached exhibit, C.B. has the knife pressed up against someone's

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<sup>10</sup> A hard drive will be lodged with the court with this Opposition. It will also contain videos of other incidents raised in this motion.

1 shoulder a millisecond away from stabbing him. At least three lives were endangered at that  
2 moment. Defendant Martinez pepper sprays C.B. from a distance and C.B. disengages. Yet,  
3 somehow, C.B. has been named as the victim of an unlawful use of pepper spray in Count 33  
4 and Martinez is the suspect because in this instance, C.B. is the aggressive dog that Stephan is  
5 protecting. Simply because he is not antifa.

6 Based on counsel's review, it appears that C.B.'s live stream, his false statements, and  
7 the fact that he brandished a knife on skateboarders prior to the Count 33 incident were not  
8 presented to the grand jury. Neither was his gleefully celebration that he "triggered" another kid  
9 on purpose to provoke the kid into attacking him for C.B.'s YouTube channel. Instead, a  
10 spliced-up montage was presented that excluded this high-value exonerating information. Mr.  
11 Martinez is a hero for doing something the police and the prosecution apparently will not.<sup>11</sup>  
12 This is yet another glaring example of how Summer Stephan's conflict of interest has permeated  
13 her entire office and is resulting in the defendants not receiving a fair trial.

14  
15 **C. The Unrelated Cases Cited by the District Attorney's Office Do Not Involve**  
16 **Stephan's Ideological Allies Who Funded Her Campaign Clashing with A Political**  
17 **Group That She Specifically Targeted in Her Campaign.**

18 As with all disabling conflicts of interest, they are based on the specific facts and  
19 parties involved in a particular case. In providing a list of Stephan's other unrelated  
20 prosecutions (See DA Opposition Appendix), the District Attorney's Office fails to  
21 acknowledge that the conflict here, as stated in Mr. White's moving papers, arose due to the  
22 facts of this specific protest.

23 This case involved political violence committed by right-wing extremists with  
24 connections to both Summer Stephan's "anti-Antifa" political campaign and to the San Diego  
25 GOP machine, to which Stephan (despite her calculated attempts to distance herself in the  
26 public eye) still relies upon for financial support. The January 9, 2021 San Diego Republican  
27 "Patriot Rally" giving rise to this prosecution represents the latest in a years-long pattern of  
28 Summer Stephan's office failing to prosecute violence committed at political rallies by a core  
group of violent, GOP-connected extremists. In response to Mr. White's recitation of the  
numerous, well-publicized complaints by victims of violence at political rallies committed by

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<sup>11</sup> See **Exhibit B**, Photos of C.B. inciting violence, brandishing a knife, and committing acts of violence on January 9, 2021.

1 this group of GOP-connected extremists, the District Attorney’s Office inexplicably holds up  
2 as an ideological shield their prosecutions of unrelated hate crimes having nothing to do with  
3 this group of bad actors.

4       Ultimately, Summer Stephan, with the help of her key political benefactor Tony  
5 Krvaric, knowingly appealed to this ultra-right-wing bloc for votes and campaign donations by  
6 promising to use her office to go after antifa, their sworn political enemy.<sup>12</sup> Among those who  
7 responded to Summer Stephan's 2018 campaign promise to go after antifa is Kristopher  
8 Wyrick, the President of the Southern California chapter of hardcore white supremacist group  
9 The American Guard. As the President, Wyrick plans and directs the activities of his chapter  
10 members. Wyrick not only donated to Stephan's campaign in response to her promise to use  
11 her office to go after antifa, he did so while he and fellow members of his American Guard  
12 chapter (including N.S., named as an unidentified Victim Four in this prosecution) were the  
13 subjects of a criminal investigation for assaulting and injuring racial justice protestors at a  
14 political protest months earlier.

15       The San Diego Republican Party features multiple photos of Kristopher Wyrick at  
16 private San Diego GOP events alongside photos of Summer Stephan and Tony Krvaric at these  
17 same private events.<sup>13</sup> It is reasonable to infer that Stephan feels a sense of obligation to her  
18 donors, such as Wyrick and Krvaric, who vocally oppose antifa and who elected her based on  
19 her promise to target antifa. Stephan’s apparent conflict of interest then elevated to an actual  
20 conflict of interest when her loyalty to those who supported her campaign began to affect her  
21 charging decisions. In his motion, Mr. White lists numerous examples of Stephan failing to  
22 prosecute political violence by the same right-wing extremists who form the core of the  
23 prosecution’s case, namely T.G., N.S., and R.S., despite publicly available evidence and police  
24 reports detailing their crimes. Against this backdrop, Stephan’s loyalty toward right-wing  
25 extremists who organized the protest, and her expressed bias against antifa, became a disabling  
26 conflict of interest when the two groups clashed on January 9, 2021.

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<sup>12</sup> This isn’t editorializing by counsel. See **Exhibit C** for the article written by Stephan’s campaign manager talking about the anti-Soros strategy. The entire article is eye opening: “Our goal was to taint the Soros money...”

<sup>13</sup> See **Exhibit D**, photographs of Kristopher Wyrick alongside Summer Stephan and Tony Krvaric.

1 In support of their argument that Mr. White has failed to demonstrate that the District  
2 Attorney’s Office has a conflict of interest, the prosecution selectively cites Penal Code section  
3 1424 case law authority with facts that bear no resemblance to the conflict of interest here.  
4 Meanwhile, the prosecution seeks to dismiss the appellate decision that is most on point,  
5 *People v. Lastra* (2022) 83 Cal.App.5th 816 (*Lastra*).

6 In *Lastra*, the court found that the District Attorney’s targeted fundraising appeal  
7 wherein he did not name a single defendant, or their specific group, but described them with  
8 sufficient clarity to leave no mistake that he was referring to Black Lives Matter (BLM)  
9 defendants, created a conflict of interest. (*Lastra, supra*, 83 Cal.App.5th at p. 822 [“Dan needs  
10 to know more than ever that you support him, and he really needs your financial support so he  
11 can keep leading the fight in SLO County against the wacky defund the police movement and  
12 anarchist groups that are trying to *undermine the rule of law and public safety* in our  
13 community.”].) The court found that this fundraising appeal in context with the district  
14 attorney’s “contemporaneous prosecutorial decisions” demonstrated a disabling conflict of  
15 interest. (*Lastra, supra*, 83 Cal.App.5th at p. 823.) The contemporaneous prosecutorial  
16 decisions referenced in *Lastra* were the District Attorney’s decisions to prosecute only the  
17 BLM protestors while ignoring the crimes of members of the public who committed crimes  
18 against BLM protestors.

19 Here, the prosecution asserts that the holding of *Lastra* should be ignored because “it is  
20 completely impossible to find that any comments the San Diego County District Attorney  
21 made in 2018 were tied to “contemporaneous prosecutorial decisions.” (DA Opposition, at p.  
22 12.) However, contemporaneous with the decision to prosecute Mr. White and his co-  
23 defendants, Stephan’s office issued a false press release which echoed her campaign promise to  
24 target antifa as an attack on public safety. The December 6, 2021 press release stated:

25 The Antifa-affiliated group surrounded several minors who they  
26 believed to be attending the Patriot March, sprayed them with mace  
27 and chased them up the boardwalk, shoving one of the minors to the  
28 ground. The minor was surrounded and beaten resulting in the minor  
victim being taken to the hospital to be treated for a concussion.

In addition to assaults on those participating in the Patriot March,  
there were collateral victims including a dog that was maced, a  
journalist attempting to take photos, a business that was vandalized,  
and assaults on police officers.

1  
2 Video evidence analysis shows that overwhelmingly the violence in  
3 this incident was perpetrated by the Antifa affiliates and was not a  
4 mutual fray with both sides crossing out of lawful First Amendment  
5 expression into riot and violence.<sup>14</sup>

6 This false statement made contemporaneously with the charging decisions by Stephan's  
7 office, when viewed in light of the evidence of violent crimes committed by The American  
8 Guard, Defend East County, and Proud Boys presented in Mr. White's moving papers, factors  
9 into the totality of the circumstances which establish a disabling conflict of interest in this  
10 specific case.

11 **D. Summer Stephan's Conflict of Interest Has Permeated Her Entire Office.**

12 Another indication of the office-wide conflict of interest is evident in the choice of the  
13 prosecutor tasked with drafting Summer Stephan's opposition motion. Martin Doyle, who was  
14 very likely hand-selected by Summer Stephan to write an opposition in her defense, has been  
15 endorsing Stephan via the San Diegans Against Crime PAC ever since she took office.<sup>15</sup> He  
16 also donates money to SDAC and SDAC recently donated to Stephan earlier this year. Thus, in  
17 addition to wanting to please her as his supervisor, Mr. Doyle contributed to Stephan's  
18 campaign wherein she targeted antifa.

19 Another example of the bias against antifa permeating the District Attorney's Office is  
20 Wendy Patrick, a San Diego prosecutor who believes the capitol insurrection was a "false flag"  
21 attack planned by government agencies to discredit the pro-Trump movement. Two months  
22 after the January 9, 2021 protest, Ms. Patrick participated in a podcast with Andy Ngo, the  
23 most prolific anti-antifa propagandist in the United States, wherein she glorified Ngo and  
24 described antifa as a radical group continuing on its path of destruction in major U.S. cities.<sup>16</sup>

25  
26  
27 <sup>14</sup> See **Exhibit A** - December 6, 2021 Press Release.

28 <sup>15</sup> <https://www.southtechhosting.com/SanDiegoCounty/CampaignDocsWebRetrieval/Search/SearchByAdvanced.aspx> search term "Martin Doyle".

<sup>16</sup> <https://omny.fm/shows/dr-wendy-patrick/today-with-dr-wendy-03-13-21> : "Antifa Unmasked -- The radical group Antifa continues its path of destruction in major U.S. cities. Who are they, and where do they get their funding? Find out as we interview one of the bravest journalist [sic] in the U.S. today, Andy Ngo."

1 In light of this office-wide sentiment about antifa, it begins to make sense why the  
2 prosecution here, in defending a motion to disqualify their office based on a bias against antifa,  
3 would analogize Summer Stephan’s campaign that targeted antifa to “committing to focus on a  
4 particular class of crimes if elected—for instance retail theft.” (DA Opposition, at p. 10.) The  
5 bias against antifa is so endemic to the San Diego County District Attorney’s Office that no  
6 one from their office is able to view antifa as a group of people with political beliefs that may  
7 be opposed to theirs. Instead, they see antifa as the equivalent to a certain class of crime,  
8 which should be targeted like a crime, irrespective of the facts of this case. This sentiment was  
9 mirrored by the prosecution’s expert who was tasked with disparaging antifa to the grand jury,  
10 Dawn Perlmutter.

11 Ultimately, after falsely stating that Mr. White’s motion fails to articulate the proper  
12 standard to recuse an entire district attorney’s office, the prosecutors assigned to this case  
13 assert that they are immune from Stephan’s influence as the head district attorney because they  
14 are not at-will employees, suggesting that Stephan has no authority over them. It is deceiving  
15 to assert that the prosecutors assigned to this case cannot be fired, promoted, or disciplined by  
16 Summer Stephan. Although they have a right to appeal any “disciplinary order” under San  
17 Diego County Charter, Section 900, et seq., this begs the question as to where the disciplinary  
18 orders stem from. Is Summer Stephan unable to promote, discipline, or assign cases to a  
19 prosecutor in her office? Doubtful.

20 “Individuals who head a government law office occupy a unique position because they  
21 are ultimately responsible for making policy decisions that determine how the agency's  
22 resources and efforts will be used. Moreover, the attorneys who serve directly under them  
23 cannot be entirely insulated from those policy decisions, nor can they be freed from real or  
24 perceived concerns as to what their boss wants.” (*City and County of San Francisco v. Cobra*  
25 *Solutions, Inc.* (2006) 38 Cal.4th 839, 853-854.)

26 The prosecutors assigned to this case cannot be freed from the real or perceived  
27 concerns as to what Summer Stephan wants regarding this prosecution. Ultimately, Stephan’s  
28 bias is consistently echoed throughout the decisions of the prosecutors assigned to this case,  
including their grand jury presentation, arguments, and recent motion strategy.

1           **E. The Attorney General’s Position on Affidavits and Their Fact Specific Analysis is**  
2           **Unavailing**

3           The Attorney General’s Opposition is close to a boilerplate version of their office’s  
4 response at the trial court level in *People v. Lastra*. The same arguments regarding the  
5 affidavit requirement were raised vigorously by the Attorney General in the trial court and  
6 argued with fervor at the appellate court. The Attorney Generals were the only ones who were  
7 convinced by that argument—certainly the four judges who decided the case at both levels  
8 were not.

9           The Attorney General believed in *Lastra* that their myopic reliance on the affidavit  
10 provision of section 1424 should eclipse the defendants’ Constitutional rights, the spirit and  
11 logic of the law, and the morality of justice. It did not work in *Lastra*, and it should not work  
12 here. Furthermore, because selective prosecution is a major component of the disqualification  
13 argument, counsel is unable to obtain affidavits from police officers, prosecutors, and Summer  
14 Stephan.<sup>17</sup> However, counsel can subpoena them to the stand as part of the evidentiary  
15 hearing, and to the extent that the affidavit argument is persuasive to this Court, counsel  
16 requests permission to do so.<sup>18</sup>

17           There are notable differences between the Attorney General’s response in *Lastra* versus  
18 here. First, in *Lastra*, the Attorney General diligently asked for a continuance and reviewed  
19 the large volume of discovery in that case so they could render an opinion on the law and the  
20 facts. That type of due diligence here would have taken approximately one hundred hours.  
21 Instead, the AG Opposition took about a week to produce and makes no reference to discovery

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22           <sup>17</sup> The purpose of the Penal Code section 1424 affidavit requirement is to ensure that recusal  
23 motions are supported by competent evidence, not to create an unrealistic evidentiary bar. (See *People*  
24 *v. Sy* (2014) 223 Cal.App.4th 44, 68 [motion to recuse procedurally infirm because it was not supported  
25 with “affidavits or other competent evidence”].) In some instances, the affidavits might present  
26 *disputed material facts*, the resolution of which may depend largely upon the affiants’ veracity and  
27 credibility under circumstances that can be determined only by holding an evidentiary hearing. (*Packer*  
28 *v. Superior Court* (2014) 60 Cal.4th 695, 698, emphasis added.)

<sup>18</sup> The general purpose of an affidavit is to help prevent the presentation of perjured statements.  
(*Kulshrestha v. First Union Commercial Corp.* (2004) 33 Cal.4th 601, 609 [“As with live testimony, the  
oath-taking procedures for affidavits help prevent perjury.”].) Under Code of Civil Procedure section  
2015.5, declarations sworn under penalty of perjury may be submitted in lieu of affidavits, and such  
declarations carry like force and effect. (*Id.*, at p. 609 [“Declarations serve as a more streamlined  
means of ensuring that the witness understands ‘the grave responsibility he has assumed with respect to  
the truth.’” [citation] ].)

1 or their own investigation. What they provide here is a hyper-technical non-fact-driven  
2 response that is unreliable.<sup>19</sup>

3 Finally, the Attorney General labels much of the allegations in the disqualification as  
4 not being supported by evidence. They ignore the prosecution’s concession in the DA  
5 Opposition that they introduced much of this evidence to the grand jury as *Johnson* material (it  
6 is a separate point that the prosecution omitted many exculpatory items).<sup>20</sup> (DA Opposition, at  
7 p. 4.) Thus, the Attorney General is incorrect about the lack of evidence.

8 What was improper about the grand jury proceedings is that they failed to ask the grand  
9 jury to return an indictment with (1) charges against numerous members of American Guard  
10 (T.G., N.S., M.A., and R.S.), Defend East County, and Proud Boys for conspiracy to riot; (2)  
11 charges against James Kinard and his numerous accomplices in the alley attack for conspiracy  
12 to commit assault, false imprisonment by violence, assault with a deadly weapon, assault  
13 causing great bodily injury, and a hate crime; (3) charges against Chad Alvarez for disturbing  
14 the peace, inciting a riot, possession of a destructive device, and assault; (4) charges against the  
15 man who attacked the antifa victim writing with chalk on the sidewalk for assault and battery;  
16 (5) charges against the juvenile who shot people with a BB gun for assault with a deadly  
17 weapon, brandishing, and unlawful discharge; and (6) charges against C.B. for brandishing a  
18 knife, terrorist threats, and assault.

19  
20 **III. CONCLUSION**

21 “In each case, the trial court must consider the entire complex of facts surrounding the  
22 conflict to determine whether the conflict makes fair and impartial treatment of the defendant  
23 unlikely.” (*Eubanks, supra*, 14 Cal.4th at p. 599.) Ultimately, perhaps it takes an “out-of-  
24 town” attorney who is not so embroiled in the political atmosphere of Summer Stephan’s office  
25 to recognize the disabling conflict of interest as it relates to this specific case.

26 //

27 //

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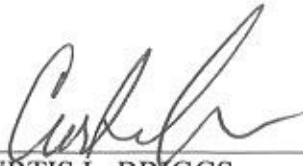
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<sup>19</sup> Attached to this Reply are two affidavits, one from a journalist and one from a private investigator and social media investigation expert.

<sup>20</sup> Counsel will renew a dismissal of the grand jury indictment based on what is now known as withheld exculpatory evidence.

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Dated: 11/13/23

  
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CURTIS L. BRIGGS  
Attorney for Defendant  
JEREMY JONATHAN WHITE

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**PROOF OF SERVICE**

The undersigned declares:

I am a citizen of the United States. My business address is 1211 Embarcadero # 200, Oakland, CA 94606. I am over the age of eighteen years and not a party to the within action.

On the date set forth below, I caused a true copy of the within  
JOINT REPLY TO DISTRICT ATTORNEY'S AND ATTORNEY GENERAL'S  
OPPOSITION TO MOTION TO DISQUALIFY THE SAN DIEGO COUNTY DISTRICT  
ATTORNEY'S OFFICE

to be served on the following parties:

San Diego County District Attorney's Office  
Hall of Justice  
330 W. Broadway  
San Diego, CA 92101

Via Email at:

william.hopkins@sdcda.org  
makenzie.harvey@sdcda.org

Office of the Attorney General  
600 West Broadway, Suite 1800  
San Diego, CA 92101-3702

Via: britton.lacy@doj.ca.gov

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration is executed on November 13, 2023, at San Francisco, California.

  
CURTIS L. BRIGGS

Content cut and pasted by counsel from [How To Combat A Deluge Of Outside Spending Down Ballot - Campaigns & Elections \(campaignsandelections.com\)](http://www.campaignsandelections.com) due to errors with the print function.

# How To Combat A Deluge Of Outside Spending Down Ballot



District attorney races were, until recently, sleepy affairs that often did little to excite voters or donors. That's changing. A multi-million dollar [advocacy effort](#) spearheaded by

George Soros and liberal allied groups is turning these contests into genuine donnybrooks. At the same time, the tactics that used to win these races must evolve, or the campaigns risk being overwhelmed down the stretch.

Consider Soros' [\\$1.7 million investment](#) in the high-profile Philadelphia DA's race, electing defense attorney Larry Krasner in 2017. Counteracting that dollar for dollar for a DA candidate is challenging to say the least. But during my work for Summer Stephan in San Diego County earlier this year, we found a way. It started with targeted educational outreach to local reporters, a strategy other C&E writers [have noted through the years](#).

Now, Stephan was an interim DA when he emerged as a target for Soros. Appointed by the County Board of Supervisors to complete the term of the incumbent who retired early, Stephan had very low name ID with less than a year before the election.

Polling conducted four months before the election had her barely leading deputy public defender Genevieve Jones-Wright 19-15 percent, and very vulnerable to the attacks we expected Soros to use.

Still, our greater challenge was San Diego County's campaign finance laws, which limit individual contributions to just \$800 and prohibit corporate, PAC, and lobbyist contributions. That really shrinks the potential donor pool given rainmakers don't often see DA races as the typical place to get involved.

The benefit we had was knowing it was coming. We identified a long-term investment from Soros's Open Society Foundations dedicating \$1 million a year to local progressive organizations over at least four years, to organize at the grassroots level. This is in addition to a \$50 million grant to the ACLU to help this [DA-focused effort](#) nationally.

We studied the other races Soros played in and also interviewed candidates targeted by Soros. The races took on a familiar theme – heavy TV advertising and direct mail, appearing out of nowhere five-six weeks before the election. In some races, there was also an investment in ground operations, if not from Soros, then from groups like the ACLU and Real Justice PAC.

We expected at least \$1.5 million in San Diego and thought we could probably raise about \$500,000. That's a difficult resource disadvantage because after overhead, we were left with about \$300,000 in actual voter contact. San Diego is the fifth largest county in the U.S. with a population of 3.2 million people, so mail universes are huge and just one mail piece could cost as much as \$100,000.

Being so outgunned, our plan was to use paid social media to define Stephan, go on TV and focus advertising exclusively on broadcast and cable news programming to reach the most likely of likely voters. More importantly, we wanted to educate local media on the Soros threat well in advance of his arrival so that they already understood what was happening, rather than rushing to explain when it began.

Many reporters we met with, and even supporters, thought we were paranoid. But when Soros came, we were ready.

Five weeks out, we saw the first solid indication when Soros dropped \$1.5 million into the California Safety & Justice PAC. In response, we launched a website, [ThreatToSanDiego.com](https://ThreatToSanDiego.com), with two clear CTAs: sign up for emails and donate.

Our TV ads highlighting Soros' involvement began on the same day as the Soros ads, giving us the opportunity to bracket his messaging. California law requires major donors to be disclosed on the disclaimers so Soros' name was on every one of his ads. Surprisingly, our February polling showed 40 percent of San Diego voters knew who Soros was and 25 percent of those voters had a negative impression.

But maybe most importantly, we organized a press conference in front of the Hall of Justice with nearly 150 people including prosecutors, law enforcement, activists, victims, survivors, and advocates. The only people who spoke at the press conference—covered extensively by local reporters—were victims and survivors.

Our goal was to taint the Soros money, so that even as he outspent us by five-to-one or more, his message would be dismissed by informed voters.

As the campaign progressed, it got more contentious. Debates and forums became more raucous, and with that came increased local media coverage, providing us further opportunity to get our message out.

Public safety groups began mobilizing, as well, with television and digital advertising supporting Stephan, but still far behind Soros in scale.

Ten days from Election Day, Soros reserved \$942,000 in TV ads for the final week — an enormous amount for a market like San Diego. In total, some \$2.5 million [was invested](#) into Jones-Wright's campaign.

Over the weekend, we rang the alarm with our supporters and scheduled another massive press conference turning out more than 100 people. But that afternoon, Soros

cancelled all his advertising leaving Jones-Wright without the massive resource advantage in the closing week. Stephan went on to win 64-36 percent.

*Jason Cabel Roe is the founder of Roe Strategic.*

**EXHIBIT A**

330 West Broadway  
San Diego, CA 92101  
(619) 531-4040

SanDiegoDA.com

OFFICE OF  
**THE DISTRICT ATTORNEY**  
COUNTY OF SAN DIEGO

DWAIN D. WOODLEY  
ASSISTANT DISTRICT ATTORNEY

SUMMER STEPHAN  
DISTRICT ATTORNEY

December 6, 2021  
For Immediate Release

Contact: [Steve Walker](tel:6195313890) (619) 531-3890  
[Tanva Sierra](tel:6195313315) (619) 531-3315  
*En Español* [Barbara Medina](tel:6195313305) (619) 531-3305

## **DA Charges Defendants Responsible for Violent Pacific Beach Incident**

### ***Prosecutors Say Groups Affiliated with ANTIFA Organized from Los Angeles and from San Diego to Carry Out Violence on 16 Victims***

San Diego County District Attorney Summer Stephan today announced multiple felony charges against six of the eight people arrested in connection with violent criminal acts committed earlier this year during a demonstration in Pacific Beach on January 9, 2021. Charges against the defendants include conspiracy to commit a riot, illegal use of tear gas, assault by means likely to produce great bodily injury and vandalism. If convicted, the defendants face a sentencing range of probation up to 10 years and eight months in prison.

The defendants who appeared in court today were Luis F. Mora, 30; Joseph Gaskins, 21; Martin Talab, 27; Jeremy White, 39; Bryan Rivera, 21; Brian Lightfoot, 25; and Jesse Cannon, 31. A readiness hearing was set for December 15 and a preliminary hearing is currently set for December 17. The remaining two defendants will be arraigned at a later date. An outstanding arrest warrant exists for the ninth defendant.

The Defendants are self-identified to be affiliated with Anti-fascists or Antifa and in this case organized into two groups, one originating from Los Angeles and the other from San Diego. The defendants began organizing on January 2, 2021 for what they referred to as “Direct Action” against a demonstration to take place on January 9, 2021 in Pacific Beach. Evidence gathered in the investigation shows that Antifa members reference to “Direct Action” means acts of violence such as assault, battery, assault with deadly weapons, arson, and vandalism.

On January 9, the crowd of self-identified Antifa— many of them dressed in all black clothing commonly known as “Black Bloc” and wearing Antifa memorabilia— gathered at the Pacific Beach pier to counter a political demonstration that was referred to as “Patriot March,” in support of the former President. The group wearing all black arrived an hour prior to the scheduled beginning of the “Patriot March.” The group gathered and began to march up and down the boardwalk. On at least eight separate occasions, approximately 15 to 20 members from the counter protesting group (Antifa-affiliated) broke off and surrounded perceived members of the Patriot March group and attacked them using impact weapons and mace. At present, there are 16 known victims.

At one point, a line of 20 to 25 counter protesting individuals advanced on a smaller group of four people from the Patriot March, yelling obscenities at them and screaming for them to run. One member

of the group, who was dressed in black with their face covered, pulled out a can of pepper spray and sprayed it in their faces. The smaller group was attacked with chairs, sticks, glass bottles, full alcohol/beer cans and closed fists as they were chased down the boardwalk.

The Antifa-affiliated group surrounded several minors who they believed to be attending the Patriot March, sprayed them with mace and chased them up the boardwalk, shoving one of the minors to the ground. The minor was surrounded and beaten resulting in the minor victim being taken to the hospital to be treated for a concussion.

In addition to assaults on those participating in the Patriot March, there were collateral victims including a dog that was maced, a journalist attempting to take photos, a business that was vandalized, and assaults on police officers.

Video evidence analysis shows that overwhelmingly the violence in this incident was perpetrated by the Antifa affiliates and was not a mutual fray with both sides crossing out of lawful First Amendment expression into riot and violence.

The San Diego Police Department declared the event an unlawful assembly and demanded that the protestors disperse. The counter protestors threw bottles, eggs, rocks and sprayed at the officers with mace before the crowd was finally broke up.

SDPD, working with the District Attorney's Office, investigated multiple allegations of violent criminal conduct. As a result of those investigations, on December 2, search and arrest warrants were served throughout Los Angeles and San Diego counties.

As in every case, the District Attorney's Office follows the rule of law in bringing charges where the evidence supports it beyond a reasonable doubt regardless of the political orientation of crime victims, as the right to peaceful protest must be protected. When peaceful Black Lives Matter protesters were assaulted in Lemon Grove, the DA's Office brought felony charges and obtained felony convictions.

Anyone who was a victim in the incident who hasn't spoken with law enforcement may contact [SanDiegoDA@sdcdca.org](mailto:SanDiegoDA@sdcdca.org)

**EDITORS:** A copy of the criminal complaint filed in this case is attached.

###

**About the San Diego County District Attorney's Office**

*The San Diego County DA's Office prosecutes all felony crimes in the county and misdemeanor crimes committed outside the City of San Diego. The office files about 40,000 criminal cases a year and balances prosecution with numerous crime prevention programs. District Attorney Summer Stephan leads the office of more than 1,000 dedicated employees who pursue fair and equal justice, and support victims daily across San Diego County.*

**EXHIBIT B**











**EXHIBIT C**

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Now, Stephan was an interim DA when he emerged as a target for Soros. Appointed by the County Board of Supervisors to complete the term of the incumbent who retired early, Stephan had very low name ID with less than a year before the election.

Polling conducted four months before the election had her barely leading deputy public defender Genevieve Jones-Wright 19-15 percent, and very vulnerable to the attacks we expected Soros to use.

Still, our greater challenge was San Diego County's campaign finance laws, which limit individual contributions to just \$800 and prohibit corporate, PAC, and lobbyist contributions. That really shrinks the potential donor pool given rainmakers don't often see DA races as the typical place to get involved.

The benefit we had was knowing it was coming. We identified a long-term investment from Soros's Open Society Foundations dedicating \$1 million a year to local progressive organizations over at least four years, to organize at the grassroots level. This is in addition to a \$50 million grant to the ACLU to help this [DA-focused effort](#) nationally.

We studied the other races Soros played in and also interviewed candidates targeted by Soros. The races took on a familiar theme – heavy TV advertising and direct mail, appearing out of nowhere five-six weeks before the election. In some races, there was also an investment in ground operations, if not from Soros, then from groups like the ACLU and Real Justice PAC.

We expected at least \$1.5 million in San Diego and thought we could probably raise about \$500,000. That's a difficult resource disadvantage because after overhead, we were left with about \$300,000 in actual voter contact. San Diego is the fifth largest county in the U.S. with a population of 3.2 million people, so mail universes are huge and just one mail piece could cost as much as \$100,000.

Being so outgunned, our plan was to use paid social media to define Stephan, go on TV and focus advertising exclusively on broadcast and cable news programming to reach the most likely of likely voters. More importantly, we wanted to educate local media on the Soros threat well in advance of his arrival so that they already understood what was happening, rather than rushing to explain when it began.

Many reporters we met with, and even supporters, thought we were paranoid. But when Soros came, we were ready.

Five weeks out, we saw the first solid indication when Soros dropped \$1.5 million into the California Safety & Justice PAC. In response, we launched a website, [ThreatToSanDiego.com](https://ThreatToSanDiego.com), with two clear CTAs: sign up for emails and donate.

Our TV ads highlighting Soros' involvement began on the same day as the Soros ads, giving us the opportunity to bracket his messaging. California law requires major donors to be disclosed on the disclaimers so Soros' name was on every one of his ads. Surprisingly, our February polling showed 40 percent of San Diego voters knew who Soros was and 25 percent of those voters had a negative impression.

But maybe most importantly, we organized a press conference in front of the Hall of Justice with nearly 150 people including prosecutors, law enforcement, activists, victims, survivors, and advocates. The only people who spoke at the press conference—covered extensively by local reporters—were victims and survivors.

Our goal was to taint the Soros money, so that even as he outspent us by five-to-one or more, his message would be dismissed by informed voters.

As the campaign progressed, it got more contentious. Debates and forums became more raucous, and with that came increased local media coverage, providing us further opportunity to get our message out.

Public safety groups began mobilizing, as well, with television and digital advertising supporting Stephan, but still far behind Soros in scale.

Ten days from Election Day, Soros reserved \$942,000 in TV ads for the final week — an enormous amount for a market like San Diego. In total, some \$2.5 million [was invested](#) into Jones-Wright's campaign.

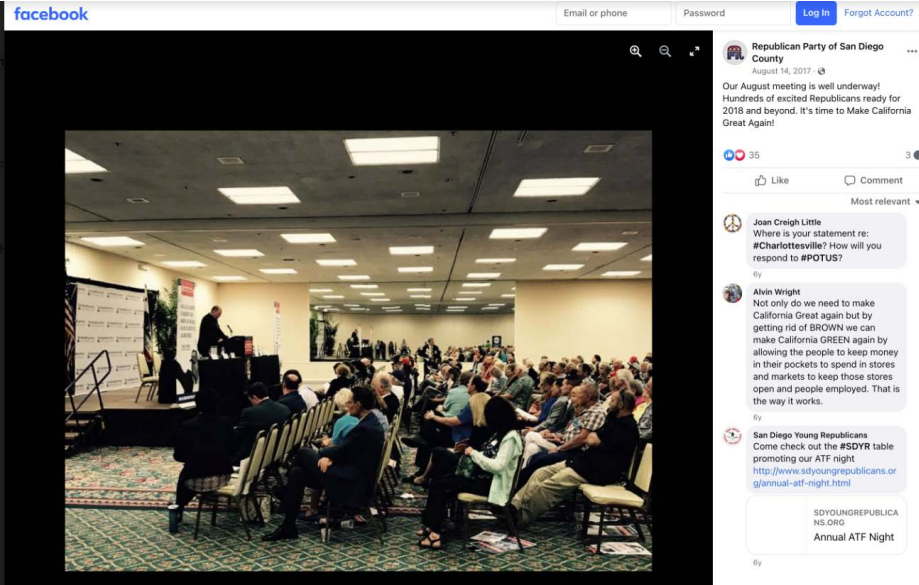
Over the weekend, we rang the alarm with our supporters and scheduled another massive press conference turning out more than 100 people. But that afternoon, Soros

cancelled all his advertising leaving Jones-Wright without the massive resource advantage in the closing week. Stephan went on to win 64-36 percent.

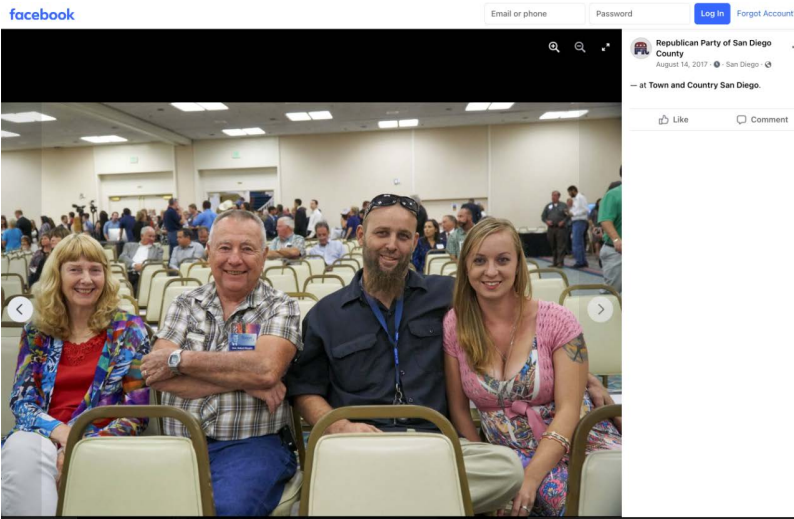
*Jason Cabel Roe is the founder of Roe Strategic.*

EXHIBIT D

August 14, 2017, Tony Krvaric addresses crown on behalf of Summer Stephan. Kristopher and Rebecca Wyrick in attendance.



August 14, 2017, Summer Stephan Addresses a small crowd with Kristopher and Rebecca Wyrick.





Affidavit of Tina Berg

I am an investigative journalist and have reviewed substantial information surrounding the January 9<sup>th</sup>, 2021, Pacific Beach incident. In my review of publicly sourced information, I saw various acts which, based on my experience, constituted crimes, and which publicly sourced information demonstrated were committed by members of right-wing extremist groups.

Noticing that the prosecution was only targeting anti-fascists for the Pacific Beach incident, I sent several emails to Assistant District Attorney William Hopkins and Communications Director Tanya Sierra to follow up to see if their office intended on prosecuting Chad Alvarez and others for their criminal acts on January 9<sup>th</sup>, 2021. I briefly described the criminal acts which I observed on publicly sourced materials including a brutal assault in the alley instigated by known Proud Boys and a member of the American Guard.

Attached to this affidavit are true, authentic, and accurate copies of the emails sent on December 17, 2021 and June 24, 2022.

I declare under penalty of perjury the foregoing to be true and correct. November 13, 2023.



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Tina Desiree Berg

Re: Press Inquiry

Fri, Dec 17, 2021 at 9:46 AM



Tina Berg <almabe2@yahoo.com>  
To: tanya.sierra@sdcca.org

Hi Tanya,

I'm following up on this as we want to make sure to include your comments. Thank you.

[Sent from Yahoo Mail for iPhone](#)

On Thursday, December 16, 2021, 11:55 AM, Tina Berg <almabe2@yahoo.com> wrote:

Hi Tanya-

Im a journalist with Status Coup and we are working on a piece surrounding your offices prosecution of the alleged Antifa activists.

- 1) Are you relying on Biden adding anarchists that oppose capitalism, et al to the DVE list to facilitate the conspiracy charges?
- 2) Will you be prosecuting any of the Trump protestors that engaged in violence?  
Specifically- Chad Alvarez for throwing a smoke bomb? Ryan Luke for wielding a knife? And the group that surrounded a man in an alley and best him?
- 3) Jesse Cannon and 5 others were arrested in October of 2020 on similar charges. Is this related?
- 4) Is the subpoena quashed by attorney Bryan Pease sent to Twitter for the owner/contacts on the SD Against Fascism Twitter account related?

Thank you for your time. If you have any other comments you want to include please let me know.

Tina D Berg

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Compose 1,2K

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Unread

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Views

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Subscriptions

Shopping

Receipts

Travel

Folders

+ New Folder

Deleted Items 1,3K

Back Forward Archive Move Delete Spam ...

Press Inquiry Yahoo/Sent

Tina Berg <almabe2@yahoo.com> To: Tanya Sierra, william.hopkins@sdcdca.org

Good Morning,

I sent two previous emails- but I wanted to give you one last chance to respond.

I am publishing a piece for the Daily Dot on the antifa case and will include any statement you would like to give. The areas:

- 1) Victim Ryan Luke had an unsheathed knife that he was threatening people with (its in video and in the police log)- yet there is no mention of this on Incident 5. Why?
- 2) Will you be prosecuting any of the Trump protestors that engaged in violence? Specifically- Chad Alvarez for throwing a smoke bomb? The group that surrounded a man in an alley and beat him (a Proud Boy filmed it and boasted about a TKO on his Telegram)?
- 3) Twisted Tea has also been carried by right wing protestors- including the indicted Oath Keepers who breached the capital on Jan 6. Why do you think this is relevant to only antifa vs a broader culture war?
- 4) There were 6 capital insurrectionists present that day- including Proud Boy Nunez. Any comment?
- 5) Why not plead these crimes out without the conspiracy? Several of them are prosecutable- but maybe not at this level? Its possible a jury and/or judge could see it this way. Your thoughts?
- 6) DA Stephan has been recently accused of antisemitism based on her now deleted campaign site. Any comment?

Or if you want to include a broader statement we will be happy to include that as well. Thank you for your time.

Regards,  
Tina-Desiree Berg