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Mr. Lynn Helland
Judicial Tenure Commission
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Mr. William Valliencourt
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Mr. William Schuette
Attorney General
State Of Michigan
Office of the Attorney General
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RE: Judge Theresa M. Brennan

Dear Hon. William Schuette, Mr. William Valliencourt, Mr. Lynn Helland and Judicial Tenure Commission:

It has been ten (10) months since facts about the behavior of Judge Brennan began to surface. Compelling factual information was given to the Michigan State Police; the Livingston County Prosecutor; and the Judicial Tenure Commission. You all received either portions of or complete copies of deposition testimony as well as phone records and other relevant information.

Each of your agencies has confirmed the serious issues raised concerning the behavior of Judge Brennan. In spite of all the “facts” that have been in your possession for months, she remains on the bench, free of any official action to hold her accountable and answerable for her wrongdoing to the public she is obligated to serve.

There are two agencies who should be addressing this matter:

1. The Judicial Tenure Commission (“JTC”).
2. The Attorney General and Livingston County Prosecutor.

A. THE ISSUES BEFORE THE JTC

The JTC is constitutionally charged to investigate and take proper action against judges who violate their oath of office and the Code of Judicial Conduct. They do not prosecute Judges for criminal acts. They discipline with the approval of the Supreme Court judges who fail us.

The national spotlight has focused on the behavior of men in positions of power who have victimized those vulnerable to them. They have been exposed. They are now being held accountable. Yet Judge Brennan's offensive similar behavior has been ignored to date by the JTC. You have had the facts below for 10 months.

Several years ago in Livingston County the JTC with the support of the Supreme Court took "swift" action against a **male** judge who engaged in sexually explicit comments to his "captive audience" (i.e. his employee). He was publicly embarrassed, humiliated and forced from the bench by the Judicial Tenure Commission and restricted from serving as a judge in the future. The JTC and Supreme Court had zero tolerance for his behavior.

But judge Brennan, has escaped any accountability and remains free to exercise her power on others as she chooses.

Is the silence from the JTC for almost a year acceptable? The following behavior has been on their desk for months:

:

- ★ Judge Brennan took a sexually explicit book to her office. It was entitled **"Blow Him Away"** and it dealt with the issue of providing oral sex. The book is salacious and offensive to many. She summoned court employees and read passages from the book to them. She was not concerned with whether they were offended. She did all this in the workplace. They were a "captive audience". Her response under questioning was to blame the captive audience. Those with power who abuse it never want to admit the abuse of that power. It is up to the victims to apologize. It is their fault. Her sworn testimony shows clearly how she tried to blame the victims for their participation. She did this under oath. She attempted to discredit one of her accusers (law clerk Ms. Jessica Yakel) who had exposed this behavior. (**See Yakel Deposition Transcript January 18, 2017 page 23, lines 20-25, page 24, lines 1-25, and page 25, lines 1- 12 and Deposition of Theresa Brennan, February 9, 2017 page 143, lines 119).**
- ★ She pressured her law clerk (Ms. Yakel) to date a married MSP officer so judge Brennan could have cover to be with her own lover, Detective Furlong. (**Theresa Brennan Deposition Transcript February 9, 2017, page 242 lines 7-25, and page 243 lines 1-7).**
- ★ She pressured employees to get through her docket on multiple occasions. She wanted to go home to meet another lover on his return from Washington or on his way back. This was common knowledge among staff.
- ★ She used her employees to run her errands; stain her deck at her home and more all on the public's time. She had no concern over their ethical concern about performing personal errands while on "county paid time".

- ★ She arranged with one married police officer the use of her home as a “flop house” for his extra marital liasons.
- ★ Livingston County had to settle and pay public funds to a former employee in her court resulting from complaints made about her treatment of him. That has all been hushed up to date, but the JTC has it. What the total nature of those complaints involved has not been shared publicly. Our money has been spent to pay off someone the judge apparently abused.

What makes this behavior by a female judge any less offensive that similar boorish comments by a male judge? Should the woman be treated more sympathetically when she is the wrongdoer because she is a woman? The gender of the abuser should be irrelevant. The behavior is no less offensive whether by male or female in such positions of power.

The silence of the authorities for ten months in the face of such offensive, arrogant and corrupt behavior by this judge is beyond disturbing. It makes a mockery out of “equal justice for all”. It causes the average citizen to wonder whether justice is truly blind when a person judging us is never judged for her transgressions.

The delay in action by the JTC to hold judge Brennan accountable for her corrupt and abusive behavior is inexcusable.

B. THE ISSUES BEFORE THE ATTORNEY GENERAL AND LIVINGSTON COUNTY PROSECUTOR ADDRESSING CRIMINAL LAW VIOLATIONS

Serious wrongdoing of a criminal nature has been provided to these agencies over 10 months ago. Among those acts are the following:

- She has attempted to intimidate and influence witness testimony in her divorce case;
- she has committed perjury in her testimony;
- she has wrongfully denied a romantic relationship with the detective in a murder investigation while sitting as the presiding judge in the murder trial deciding the credibility of that officer;
- she has been caught and had to admit her sexual affair with this MSP detective; she denied a romantic kiss with the detective in her chambers prior to the murder trial. However, an assistant Prosecutor testified the judge admitted the kiss occurred. Someone is lying. Is it the Assistant Prosecutor who had nothing to gain by a lie. Or, is it judge Brennan who had much to lose by telling the truth? The testimony of a credible assistant Prosecutor has created a serious dilemma for the Livingston County Prosecutor and the Attorney General.

The facts already provided above have impacted the trial of Walter Jerome Kowalski. Kowalski was charged with murder in 2009. A horrible crime. Judge Brennan was assigned as presiding judge for the trial. No weapon was found and the evidence for conviction relied heavily upon the “confession” of Kowalski. MSP Detective Furlong was the interrogator and principal witness for the prosecution.

Kowalski's attorney challenged the confession and the issues regarding the testimony of Furlong. The defense sought to use the testimony of experts in "false confessions". Judge Brennan at each step of the proceeding bolstered/supported/ and affirmed the credibility of Det. Furlong when she had to make legal rulings. Her rulings as presiding judge in the case and the testimony of Furlong before the jury was critical to conviction. Prior to the trial in 2013, the issue of judge Brennan's relationship with Det. Furlong was raised.

The Prosecutor was told in a letter prior to the trial to question his staff; told to check phone records; told to check the meetings socially between the judge and Furlong. The Prosecutor and the judge each had supported each other in their efforts to be elected prior to the trial and did so publicly. The Prosecutor did not investigate the connection between the judge and Furlong. The court record reveals the Prosecutor made no inquiry of anyone in his office; of the Detective about the concerns raised in connection with the presiding judge. Had he done so, the record would have revealed that fact. But, had he done so, he would have discovered the fraud in judge Brennan's claim that she nothing but a "friendship" with the Detective.

The Prosecutor's duty was .clear. The American Bar Association in its **Standard 3-1.2. on the Functions and Duties of the Prosecutor states in relevant part:"... The duty of the prosecutor is to seek justice, not merely to convict.** (Emphasis supplied).

Clearly, no one stood up to the judge in her lie that her relationship was no more than a "friendship". As is typical of her behavior, she blamed the accuser for being out to get her and having a vendetta against her. She never was challenged by the Prosecutor and that was his duty, especially since he was directed on what to investigate.

Even the Attorney General was advised of this issue but he did nothing either at the time. No doubt he relied upon the statements made to him by the local prosecutor. You failed in your duty "to do justice" for the accused and assure him a fair trial at the time. Now you remain quiet for 10 months perhaps trying to figure a way out. After all, Walter Jerome Kowalski was found guilty and why help him. He is in his 70's and will probably die in prison so why rush. Are you trying to protect yourselves from your failure to do justice in 2013 by at least investigating the claims?

You need to act now. Your agencies cannot absolve judge Brennan from either perjury; misconduct in office; obstruction of justice, or some other crime. The delay in charging judge Brennan and allowing a jury to determine these issues and others related to her behavior is an embarrassment and further casts a cloud on the criminal justice system itself.

There is no reasonably conceivable way that the attorney general and our local prosecutor can properly discharge your duty without taking legal action against judge Brennan for her criminal behavior. Nonetheless, there has been 10 months of silence.

Our constitution entitles all people charged with a crime to a fair trial in front of an unbiased judge. We know the judge engaged in a cover up, and if her husband had not pressed the matter, the cover up and corruption of this judge would not have been exposed. Over 1200 minutes of calls the year prior to the trial; 231 calls; plus untold texts messages between the judge and Detective Furlong; plus 3 late night calls with the Detective for over 30 minutes concealed from the Defendant; plus within days after the verdict and before sentence a 30 minute late night call to the Detective in Michigan while she was with her husband in the Caribbean and while the husband was asleep; plus numerous meetings together at different locations for drinks.

The judge was caught and finally admitted that a sexual relationship commenced approximately 8 months after the Sentence. The facts certainly show that both Det. Furlong and judge Brennan did their best to structure a beginning date long after the trial of Mr. Kowalski. But, as prosecutors you both know that circumstantial evidence is often the best evidence especially when the criminal behavior is concealed. Rumors swirled prior to the trial of the judge and the Detective having been discovered in a sexual situation in a motor vehicle. That rumor has not been proven ***but judge Brennan's went so far in trying to discredit it that she denied ever hearing such a rumor. She denied hearing it under oath. The difficulty with that denial is that at least 3 independent witnesses (one of whom is a former MSP woman officer friend of the judge) all confirm that she acknowledged she had heard the rumor but it was untrue.***

Clearly, the attempted "cover up" turned into its own lie.

Mr. Kowalski may be guilty, but even the guilty are entitled to a fair trial. The Prosecutor knows Kowalski did not get a fair trial. The Attorney General knows the same. It is offensive to our justice system and to the duty of the Prosecutor and the Attorney General to sit on this for 10 months while a man who has been denied the right to a fair trial sits in a prison cell. The failure to act is a stain on our judicial system.

WHY THE DELAY IN ACTION AGAINST THE JUDGE

The inaction and silence by the JTC and the Attorney General and Livingston County Prosecutor raises serious questions:

—Is the fact that judge Brennan can be charming to those she wishes to impress h created sympathizers for her in high places?

—Is the fact that judge Brennan had a cozy relationship with local prosecutor Valliencourt in their recent elections worked in her favor here?

—Is the fact that judge Brennan has ingratiated herself to her fellow district judges (many men) and thereby been made an officer on the District judges board benefitted her here?

— Is the fact that she is friendly with an least one of the members of the Judicial Tenure Commission benefitted her in this matter?

—Is the fact that judge Brennan engaged in an extra marital relationship with the chief of staff of a Congressman benefitted her in this matter?

—Does the fact that judge Brennan had an affair with Det. Furlong and allowed her home to be used by another MSP officer for sexual trysts created a situation that if action is taken, many cases where these officers testified or had search warrants issued by judge Brennan could be subject to reversal?

—Did these two police officers have special access to her whereby they obtained warrants and/or others charges against individuals that may have been unsupported by facts? After all, both officers have engaged in reprehensible behavior based on the testimony taken under oath.

In short, have her connections allowed her misdeeds to go unexposed and protected her from accountability to the public. Every day that passes without required action by those with a duty to do so, has caused more stain on the integrity of our judicial system and the double standard available to those with power and influence. It is beyond time for action.

When will something be done? Will it be when her next wrong is exposed? Will it be after she has abused more victims; more litigants; more employees?

The delays have allowed judge Brennan to continue her disruptive behavior. She has been given a pass. How long must we wait for some justice from our Prosecutor; our Attorney General; our Judicial Tenure Commission.

THE FINANCIAL COST TO THE COUNTY

Judge Brennan makes a sizable salary daily but continues to cost taxpayers unreasonable and unnecessary expense due entirely to her misbehavior:

- * The computers in her court were seized and new ones had to be purchased at our expense.

- * The former clerk in her court was paid some settlement resulting from the judge's behavior toward him. This has also been kept silent. How much was he paid? Why did he receive it? It did not come from her pocket.

- * How much county money has been paid to attorney's to investigate the behavior of judge Brennan for lawsuits and claims made against her by a former law clerk? We do not know since it has not been revealed.

This entire debacle is a disgrace. The legal profession and the judiciary have become a laughing stock. Judge Brennan is the poster child for everything a judge should not become. She has been allowed to perjure herself in her own divorce in ways that are intolerable to most law abiding citizens. Yet nothing but silence from the authorities.

The county's chief judge, Hon. David J. Reader, addressed the issues that no one else has yet commented upon. Yet, even the knowledge of the Chief Judge was ignored. He was even criticized by some who do not realize his limited power over a co-equal judge. He should have been applauded, supported, and his testimony heeded by those in authority. But it was not.

Who is protecting the public, the court employees, Defendant Walter Jerome Kowalski, and others from her continued corrupt behavior. So far no one.

Thomas Kizer, Jr.
Attorney/Citizen

cc. Hon. Stephen J. Markman
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