STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

Case No. 2022-279990-FH
HON. CHERYL A. MATTHEWS

v

JENNIFER LYNN CRUMBLEY,

Defendant.
_____/

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THE PEOPLE'S COMBINED RESPONSE AND BRIEF IN SUPPORT OF RESPONSE TO DEFENDANT'S MOTION TO REMOVE AND DISQUALIFY THE OAKLAND COUNTY PROSECUTOR AND HER OFFICE

Defendant's motion is meritless, is not authorized under the Court Rules, and is filed for an improper purpose. As a result, the People are requesting sanctions. The Motion restates arguments the defense raised in its January 13, 2025 reply, which the Court has already rejected as irrelevant. The motivation for the new motion is clear—to generate headlines and divert attention from the defendant's own actions—the facts that caused a jury of her peers to unanimously find her guilty beyond a reasonable doubt for causing the deaths of Hana St. Juliana, Madisyn Baldwin, Tate Myre, and Justin Shilling.

Among the deepest flaws in the deeply flawed motion is the suggestion that the media attention surrounding the Oxford High School shooting was generated by the Prosecutor's Office. As defendant notes in her own brief, there was massive media attention in the hours immediately

after the shooting, before the prosecution said a word. The Prosecutor's Office was immediately inundated with hundreds of media inquiries. Unlike every other countywide elected official in Oakland County, on the day of the Oxford shooting, the Prosecutor's Office did not have any communications person to receive and respond to the media. As the calls and inquiries poured in, the Prosecutor's Office asked for, and the County Executive and Board of Commissioners approved of, the retention of crisis communications professionals to field and respond to those calls. The Prosecutor's Office did the right thing by victims, the taxpayers, and the public by timely responding with accurate, reliable information.

In her repeated references to a smear campaign, Jennifer Crumbley never points to any media coverage. That's because there was no smear campaign, and because the negative portrayals of Jennifer Crumbley were the result of the facts. For example, her social media posts about buying her son a gun as an early Christmas present and taking him to the shooting range three days before the shooting, the drawing school officials texted to her and showed her on the day of the shooting, her decision not to take her son home, and her flight to a warehouse in Detroit instead of turning herself in.

The media attention began immediately after the shooting, when local and national media poured into the Oxford community. The Sheriff's Office held multiple press conferences outside the school, starting at 3pm on the day of the shooting. Local, state and federal agencies participated in those press conferences, as did the governor. None of that attention had anything to do with the prosecutor. That coverage continued around the clock, unabated, through the night of December 3rd and into the early morning of December 4th as media posted hourly updates while the Sheriff's Office, FBI, and the US Marshals searched for the Crumbleys. That media attention was generated by the tragedy and the defendant's own actions, not the prosecution, and the suggestion that the

media coverage was the product of a smear campaign by hired operatives is ludicrous.

It is critical to recognize that there is nothing new in the motion. By definition, the media coverage defendant complains about came not just before the trial, but before the gag order. Those questions were raised and dealt with in pretrial motions and voir dire. The allegations regarding the two proffer agreements were raised in defendant's December 2, 2024 motion and January 13, 2025 reply, as were the baseless claims of a "smear campaign." As the Court stated during the January 31, 2025 motion hearing, those matters simply "aren't relevant."

It is also important that the Court rules do not permit the filing of such a motion when an appeal is already pending. MCR 7.208(B)(1). This court should strike the motion as improperly filed.

Lastly, knowing that such a motion is not permitted under the Court Rules and does not raise any new issues, the Court must ask, why was the Motion filed? The answer is obvious. It was filed to generate headlines, personally attack the Prosecutor and the prosecution team, and divert attention from the defendant's gross negligence that resulted in four deaths. That is not a proper purpose under the Court Rules, and defense counsel should be sanctioned.

While there is no basis whatsoever for reaching the "merits" of the Motion, they are addressed below.

Law and Argument

In order to disqualify a prosecuting attorney, a conflict of interest or the inability to attend to the duties of the office must be shown. *People v Mayhew*, 236 Mich App 112, 126-127; 600 NW2d 370 (1999); MCL 49.160. Although defendant attempts to paint a conflict of interest with a false narrative, no such conflict exists for the reasons outlined below.

I. Defendant's arguments are not relevant to the matter, and it was the evidence presented in court that spoke to defendant's character—not the Prosecutor.

Instead of trying to identify a conflict of interest that would require disqualification, defendant simply repeats her arguments that this Court already deemed irrelevant. Not only were they irrelevant to the motion for a new trial they are irrelevant to the instant motion.

The allegation that a "smear campaign" was necessary to convict defendant is as absurd as it is ignorant of the voluminous evidence admitted during the proceedings. It was defendant and her husband who gifted a deadly weapon to their son. It was defendant who failed to intervene when shown the math worksheet with the words "help me" and "the world is dead" prominently written on it; it was Jennifer and James Crumbley. It was this Defendant and her husband who left their son at school with the knowledge that he had access to a Sig Sauer 9mm handgun, that he was proficient in the operation of that firearm, and that he was in a state of crisis. The evidence proved, as early as the preliminary examination, that this Defendant could have easily taken her son home or at the very least gone back to her house to look for the gun. A crisis communication professional did not empty the shooter's bank account, attempt to liquidate assets, bounce from motel to motel and then hide from police in an empty art studio in Detroit; it was James and Jennifer Crumbley.

Defendant is attempting to rewrite history and, as she has throughout this case, blame others. But it was Jennifer Crumbley's, her husband's, and their son's acts and failures to act that caused Hana St. Juliana, Madisyn Baldwin, Tate Myre, and Justin Shilling to be gunned down in their own high school on November 30, 2021. This latest attempt to shift the blame and ignore evidence is an affront to this Court, the Prosecuting Attorney, and most importantly, the victims in this case. It is contrary to all the facts and evidence presented in the many hearings and the jury trial conducted in this case. Those facts provided more than ample evidence to convict her. Simply put, there are only two people in the world other than the shooter himself who caused those four

deaths. Jennifer Crumbley is one of them, and she was fairly convicted as a result. This motion is her latest attempt to run from the established facts and evidence presented in court.

II. Despite defendant's shifting arguments, the proffer agreements were not required to be turned over, and there was no violation of MRPC 3.8(d).

Defendant's attempt to twist the proffer agreement argument into a conflict of interest requiring disqualification fails at each turn. The real crux of her argument (i.e., that the agreements were required to be turned over under the Court Rules and *Brady*) is contrary to the law and the Court Rules. MCR 6.201(B)(5) states, "Upon request, the prosecuting attorney must provide each defendant . . . any plea agreement, grant of immunity, or other agreement for testimony in connection with the case." Defendant originally argued that the proffer agreements constituted an "agreement for testimony in connection with the case" (Defendant's Brief in Support of Motion for a New Trial, 12/2/2024, p 5). She did not argue immunity. In fact, she stated, "Whether or not the proffer agreements conveyed immunity is entirely beside the point" (Defendant's Brief in Support of Motion for a New Trial, 12/2/2024, p 5). Then, after the People's response explaining why such agreements were not an "agreement for testimony in connection with the case," defendant changed her argument in her reply brief and argued that the agreements were immunity agreements (Reply Brief in Support of Defendant's Motion for New Trial, 1/13/2025, p 2).

As explained in the People's response and during oral argument, the proffer agreements do not fall under any of the categories outlined under MCR 6.201(B)(5) (The People's Combined Response and Brief in Support of Response to Defendant's Motion for New Trial, 1/3/2025, pp 1-4; Motion for Judgment Acquittal Hearing Transcript (MH Tr), 1/31/2025). The People fully incorporate those reasons herein. However, given defendant's changing arguments, which denied the People the opportunity to respond in writing to the immunity argument, it is important to emphasize one point that was touched on during the motion hearing: MCR 6.201(B)(5)

encompasses "any plea agreement, grant of immunity, or other agreement *for testimony in connection with the case*" (emphasis added). The modifier "for testimony in connection with the case" applies to all three items in the list: plea agreement, grant of immunity, or other agreement.

As cited to at the motion hearing (MH Tr, 49, 54, 65), *Sanford v State*, 506 Mich 10, 20 n 18; 954 NW2d 82 (2020), states that "[w]hen there is a straightforward, parallel construction that involves all nouns or verbs in a series, a prepositive or postpositive modifier normally applies to the entire series, regardless of whether the modifier is an adjective or an adverb."[1] (Quotation marks and citation omitted). Thus, in terms of immunity, MCR 6.201(B)(5)'s plain language requires there to be a grant of immunity *for testimony in connection with the case*. Such was clearly not the case here as the proffer agreements contain nothing about any consideration in exchange for testimony. For these reasons and as further explained in the written response and during oral argument at the motion hearing, the proffer agreements neither fall under MCR 6.201(B)(5) nor are they *Brady*[2] material. Thus, the proffer agreements were not required to be turned over, and the crux of defendant's argument fails.

Further, defendant's reference to Michigan Rule of Professional Conduct (MRPC) 3.8(d) likewise fails to provide any support for her argument. MRPC 3.8(d) provides in relevant part, "The prosecutor in a criminal case shall. . . make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the degree of the offense . . . ." Nothing about the proffer agreements negate defendant's guilt or mitigate the degree of the offense. As explained in the *Brady* discussion of the People's response

[1] See also *id*. ("When several words are followed by a clause which is applicable as much to the first and other words as to the last, *the natural construction of the language demands that the clause be read as applicable to all*.") (Quotation marks and citation omitted; emphasis added).
[2] *Brady v Maryland*, 373 US 83; 83 S Ct 1194; 10 L Ed 2d 215 (1963).

to defendant's motion for a new trial, the proffer agreements are simply immaterial to defendant's guilt (The People's Combined Response and Brief in Support of Response to Defendant's Motion for New Trial, 1/3/2025, pp 7-11).

III. There is no factual or legal basis for disqualification.

As noted above, in order to disqualify a prosecuting attorney, a conflict of interest or the inability to attend to the duties of the office must be shown. *Mayhew*, 236 Mich App at 126-127; MCL 49.160. Neither the proffer issue nor the narrative defendant attempts to create surrounding the media establish a conflict of interest; the issues themselves do not represent a conflict, and they are substantively without merit. Cf. *id*. at 126-127 ("The disqualification of a prosecutor because of a conflict of interest can occur in situations where the prosecutor has a personal, financial, or emotional interest in the litigation or a personal relationship with the accused."). None of these types of situations from *Mayhew* exist. There is no basis for disqualification.

IV. Defendant's motion is improper under the Court Rules.

A trial court has limited jurisdiction after the filing of a claim of appeal. MCR 7.208. See also *People v Washington*, 508 Mich 107, 123; 972 NW2d 767 (2021) (explaining that jurisdiction is " 'vested in the Court of Appeals, and thus removed from the circuit court' upon the defendant's filing of his claim to appeal in the Court of Appeals"), quoting *People v George*, 399 Mich 638, 640; 250 NW2d 491 (1977). Accordingly, there are only limited postjudgment motions that a criminal defendant may file in the trial court after a claim of appeal. MCR 7.208(B). MCR 7.208(B)(1) provides, "Within the time for filing the defendant-appellant's brief as provided by MCR 7.212(A)(1)(a)(iii), the defendant may file in the trial court *a motion for a new trial, for judgment of acquittal, to withdraw a plea, or to correct an invalid sentence*." (Emphasis added). See also MCR 7.208(G) ("The trial court retains authority over stay and bond matters, except as the Court of Appeals otherwise orders."). Not only is defendant's motion untimely because it

comes after the time to file her brief but the motion is improper because it is not a motion for a new trial, for judgment of acquittal, to withdraw a plea, or to correct an invalid sentence—nor is it a bond matter. Because defendant's motion is both untimely and improper under the Court Rules, it should be stricken, and defense counsel knows this. See MCR 2.115(B) ("On motion by a party or on the court's own initiative, the court may strike from a pleading redundant, immaterial, impertinent, scandalous, or indecent matter, or may strike all or part of a pleading not drawn in conformity with these rules.").

V. Defendant's motion is filed for an improper purpose.

MCR 1.109(E)(5)(c) provides, "The signature of a person filing a document, whether or not represented by an attorney, constitutes a certification by the signer that . . . the document is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation." Further, MCR 1.109(E)(6) provides for sanctions when a document is signed in violation of this rule. Defense counsel has already attempted the media argument, failing to persuade the Court of its materiality. After this Court deemed defendant's media argument irrelevant, defense counsel's response was to subsequently hold a press conference to further his narrative. Given the lack of merit and the fact that this Court already deemed much of the substance irrelevant, it is clear that defendant's motion was filed for the purpose of generating headlines and a "smear campaign," which ironically is something defendant accuses the prosecution of doing. Sanctions are appropriate given the improper purpose of this motion. MCR 1.109(E)(5)(c); MCR 1.109(E)(6).[3]

[3] Though requests for sanctions are unusual from the People, defense counsel's arguments and statements to the press in this case warrant them. The People believe that any sanctions awarded are most appropriately given to the victim's respective charitable organizations.

Conclusion and Relief

Defendant's motion is baseless; if not denied, it should be stricken under MCR 2.115(B) because it is improper under the Court Rules. In addition to the motion being stricken, sanctions should be imposed on defense counsel under MCR 1.109(E)(6) for filing this motion for an improper purpose.

Respectfully submitted,

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DATED: MARCH 5, 2025