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November 6, 2008

David Paull, Executive Director  
Minnesota Board on Judicial Standards  
2025 Center Pointe Blvd., #180  
Mendota Heights, MN 55120

Dear Mr. Paull,

I am writing to you once again (previous letter sent 1/15/08) with concerns regarding Judge Stephen Aldrich serving the Fourth Judicial District. As you know, WATCH is a non-profit organization that sends volunteer monitors to observe hearings focused on cases of violence, particularly against women and children. Due to our ongoing concerns regarding Judge Aldrich's courtroom demeanor and competency, we decided to monitor a murder trial that we typically would not (State of Minnesota vs. Tyeric Lamar Lessley). WATCH has had monitors in the courtroom since the jury selection began on October 15, 2008.

The information gathered from our monitors and the accompanying court transcripts which I have acquired indicate that Judge Aldrich is neither competent nor has the appropriate demeanor to serve on the bench. He has made inappropriate comments regarding the case before him; he treats the State's prosecutor with hostility (particularly since October 20 when the State requested he recuse himself from the case after the defendant waived his right to a jury trial); and he has made insensitive comments regarding the victim and the State's witnesses. These remarks have been made in front of the victim's family members who have attended each hearing, oftentimes in tears.

According to the transcript from the Omnibus hearing on October 8, 2008, Judge Aldrich referred to the State's witnesses as a "bunch of drunkards" and went on to say, "Everyone was drunk. Both cars, right? Idiocy. Somebody died. And we're supposed to do something with the bodies afterwards.... We're not going to do it without all the facts." (T110/8: 72). The individuals he was referring to were friends of the victim who were with him at the time of the car accident, just prior to the victim being fatally shot. To refer to the State's witnesses as a "bunch of drunkards" shows a great deal of insensitivity towards the victim's family and infers a level of blame on the victim and those who were with him on the night of the shooting.

When the hearing resumed after lunch on October 8, 2008, Judge Aldrich was hearing an argument from the defense, who claimed that the State's witnesses should be deemed

“incompetent” due to their intoxication on the night of the shooting. Judge Aldrich said, “So what we’re saying is it’s a crapshoot for the jury when you go to the jury on this issue? Do you both agree to that legal term?” The prosecutor responded, “A crapshoot?” Judge Aldrich said, “Yeah. Taking the issue of intent when there’s such — all this intoxication around makes the trial something of a crapshoot for everybody?” (T2:10/8:39).

Earlier in the hearing he made reference to the bar the defendant had been in just prior to the shooting and said, “Well, the last time I was in A-U-G-G-I-E-S, I was 20 and a half” (T2:10/8: 4). When he asked about the time of the shooting, confirming that it happened in the early morning hours, he offered that, “something like 50 percent of all people on the street are intoxicated at 1:00 in the morning, right? ....That’s why us old folks go home” (T2:10/8:41). Such comments are unnecessary at best and at worst, they turn the courtroom into a casual environment not befitting the seriousness of a murder trial.

A WATCH monitor observed such behavior again on October 27. Paul Scoggin, lead prosecutor for the Violent Crimes Division attended the hearing that day to observe County Attorney Mike Freeman argue a stay on Judge Aldrich’s pretrial orders. As Scoggin was leaving the courtroom, Judge Aldrich yelled out to him that they needed to continue a conversation from a lunch meeting they had had earlier in the year. Judge Aldrich yelled across the courtroom, “Call me.” Scoggin threw up his hands and shook his head as he exited the courtroom. The WATCH monitor said there was a collective “eye rolling” from other members of the justice system present that day. His behavior is an embarrassment to his colleagues on the bench and to members of the justice system who uphold the decorum of the Court and recognize their obligation to maintain a serious, respectful, professional environment.

When our monitor returned from the October 15 hearing she reported that Judge Aldrich stated that he had never presided in a murder trial and did not seem clear on how to proceed with the jury selection. He asked the prosecutor and defense attorney if there was anything they wanted to tell him or “shall I just learn as I go?” (T:10/15:5). The attorneys then had to explain the process for questioning jurors specifically where the jurors stay when they aren’t being questioned and where the jurors fill out the questionnaires (T:10/15:8). This is not unusual for Judge Aldrich. He has frequently asked the attorneys for advice on how to proceed or to tell him how his “brothers and sisters on the bench” have ruled on the same question before him (T:10/8:54). This seems to contradict Canon 3 of the judicial code which states that “a judge shall be faithful to the law and maintain professional competence in it.” In requesting that others in the courtroom provide him with rules of procedure that he should already be well versed in is an indication of his lack of competency to serve as a judicial officer.

Beginning on October 20, 2008, when Judge Aldrich became aware of the State’s request to have him removed for bias based on the change from a jury to a judge trial, the judge became hostile towards the prosecutor in the hearings. Our monitor reported that there was “serious tension” between the prosecutor and the judge, and that members of the defendant’s family were sighing and laughing at the State’s motions and comments to the

judge. Judge Aldrich ignored the prosecutor's request to ask people in the gallery to refrain from making comments and laughing during the hearing (T:10/20:20). Judge Aldrich became increasingly agitated with the prosecutor because she declined to respond to the Court's questions and reserved her arguments for the Chief Judge. He asked her several times to argue her position and eventually said, "Should I bother not asking you any more questions?" (T:10/20:16).

On October 31, I observed Judge Aldrich raise his voice in anger at Pat Diamond, who was representing the State. He shouted, "I've asked for the tenth time for you to explain to me the critical impact in this case.... because I'm biased... you can't get a fair trial.... You take the risk of boring me here, Mr. Diamond. You keep saying the same thing. Judge Swenson ruled that I am not biased." Judge Aldrich said several times during the hearing that the State had misled him into making a ruling. He carried on a conversation with the defense regarding the inappropriate actions of the State, excluding the prosecutor from the discussion. (I have not yet been able to get a copy of the transcript).

On November 4, Judge Aldrich demanded that attorney Martha Holton-Dimick (on behalf of the State) take responsibility for delaying the trial two weeks "while the State wasted time with appeals" (T:11/4:14). When she would not give him the answer he was seeking, but rather asserted the State's right to make the motions they did, Judge Aldrich raised his voice and said, "If you accept responsibility, we can move on....I take it your silence means you agree that it was the State's motions that caused us to not try the case the last week and the week before... You choose not to answer the question but to give us a spin for the family one more time, right?" (T:11/4:20).

When Holton-Dimick continued to argue that the defendant's bail not be reduced, calling it a "travesty to set a murderer loose on the streets of Minneapolis," Judge Aldrich responded in a raised and angry voice, "Have you finished writing your headlines for the press yet?" (T:11/4:23). A few moments later, when Holton-Dimick again did not give a response he deemed acceptable, he told her that she was bordering on being rude and was answering his question with a political statement (T:11/4:26). He asserted, "That's been your problem with this whole case [assuming what I'm going to rule]... great fallacy of the State and why James Swenson overruled your request to get rid of me for lack of fairness." (T:11/4:27). From the bench, Judge Aldrich also threatened to put another attorney on the case if she "talked over" him (T:11/4:15). Judge Aldrich's raised voice and facial expressions showed anger toward the State for requesting that he be removed from the case. I would urge the Board to listen to the tape recordings from these hearings as part of its investigation.

Perhaps one of the most outrageous statements made by Judge Aldrich in the November 4 hearing was when he said, "Technically, at this point, an *accused* killer who admits to killing but says it was in self-defense. People have a right to kill in self-defense if deadly force is threatened, right?" (T:11/4:15). In addition to reviewing the State's motion for Judge Aldrich's removal, I would encourage the Board to consider the bias that is revealed when he makes the defense's arguments for them.

In addition to the information I have provided based on our monitors' and my own observations, it has come to my attention that on the morning of October 27, Judge Aldrich had the deputy threaten to take all Counsel into custody if they did not return to the courtroom immediately to resume the hearing. I have attempted to get something in writing regarding this, but do not have anything as of the date of this complaint. I encourage the Board to investigate this further.

He also has sequestered the victim advocate, the victim's family's primary contact at the County Attorney's Office and support person, from attending the trial based on her status as "potential witness." This argument regarding this matter took place at the October 8 Omnibus hearing and is reflected in the attached transcript (T: 42 to 59).

On November 5, I sent an email to Judge Aldrich regarding my observations of his conduct in two separate hearings related to the Lessley trial. I also informed him that I would be making a complaint with the Board. Judge Swenson is also aware of WATCH's actions to hold Judge Aldrich accountable for his conduct in this matter.

Judge Aldrich's demeanor and handling of this case increases the pain felt by the victim's family members and diminishes the integrity of our court system. Yes, we have an adversarial system, but that system only functions well when all parties conform to basic standards of civility in their communications with one another. Judge Aldrich is not adhering to these standards and his failure to do so has a tremendously negative impact on the public's trust in the judicial system.

It is my hope that the Board will conduct a thorough investigation of his behavior during this trial and publicly reprimand Judge Aldrich for his behavior and take whatever other remedial action is within the Board's authority.

Please contact me if you have any questions or require further information.

Sincerely,

Marna Anderson  
Executive Director

Enc.

Transcripts: 10/8; 10/15; 10/20; 11/4  
State's motion for removal