

COMPLAINT TRAVEN TOMPKIN

The Defendant Traven Tompkin is an African American Male who is disabled with a profound hearing disability due to a childhood illness. Mr. Tompkin receives disability from the Social Security Office for his hearing loss.

The Defendant Mr. Tompkin has recently discovered that an undisclosed mother/daughter conflict existed in People vs. Tompkin, for which no waivers or disclosures or admonishments were provided. The Defendant Mr. Tompkin alleges that other undisclosed relationships existed between the trial judge and the attorneys Matthews, Wilson, Danley that are unethical, racially motivated and directly impacting the Defendant's right, to an unbiased and non-conflicted justice system.

The Defendant, Mr. Tompkin asserts that an "accord" had been reached that extends across different members of the judiciary including his trial judge. The Defendant Mr. Tompkin asserts that this "accord" was reached as a collective maneuver. Mr. Tompkin has made it an issue in his criminal case. The Defendant Mr. Tompkin also asserts that such an "accord" would have required a great deal of prohibited ex-parte communications between attorneys and sitting judges. The Affidavit of Judge O'Brien demonstrates that such agreement existed and it was manufactured by the attorneys and used as a basis of communication with the sitting trial judge who then relied upon those representations and assigned Matthews to Mr. Tompkin's case. (See attached Affidavit Judge O'Brien)

The undisputed facts demonstrate a series of out of court statement(s) of ex-parte communications with unidentified judge(s) including Judge O'Brien regarding the specific conflict of interest in appointing Terese Matthews opposite her daughter Maggie Wilson in Mr. Tompkin's battery case. The judge(s) and attorney(s) did not make a mistake; it is instead a premeditated series of improper ex-parte communication(s) with a sitting judge(s) about pending criminal matter(s) both current and future in which African American men like Mr. Tompkin are deprived of basic civil rights.

Mr. Danley and His Family Ties to Judiciary

That Mr. Danley (Who is white) has family ties to the "Coles County Judiciary" (Who are all white). That on information and belief, the success of Mr. Danley reaching an accord within the judiciary was achieved in part through his family ties to the judiciary. Mr. Danley is the nephew of Pete Shanks (Who is white)(now retired) and Mary Danley (Who is White) who serve the sitting judges (Who are all white) in Coles County as court reporters. Mr. Danley's family would have specific knowledge of the accord. Mr. Danley's close family and personal relationships give him unrestricted access to behind the scenes conversations with all the sitting judges. There is no "Chinese Wall" to prevent these types of internal disclosures to Mr. Danley. This is a very small environment in which the court reporters have unfettered access to judicial conversations and deliberations.

Most are friends with the judges they serve. So is the case here. How can any Mr. Tompkin prevent ex-parte communication between family members? It is human nature and instinct to gossip, especially to family about family. In the instant case that inter family gossip is all prohibited ex parte communications directly and indirectly through family ties.

Factual Theory of the Case

Ms. Wilson sought and obtained an attorney position with the Coles County State's Attorney's Office, Ms. Wilson and Mr. Danley knew of the potential conflict of interest with her mother at the time Ms. Wilson was hired.

State's Attorney Danley immediately assigned Ms. Wilson opposite and adverse to the Public Defender mother, Matthews, in misdemeanor and/or felony criminal matters in Coles County. That Judge O'Brien with knowledge then appointed Terese Matthews opposite her daughter in hundreds of criminal cases including People vs. Tompkin.

Ms. Wilson was on probation with the ARDC and had supervising attorney(s) and an ARDC probation officer at the time that Ms. Wilson began practicing opposite her mother. None of the responses indicate the conflict was addressed with Wilson's supervising attorneys or her probation officer at the ARDC.

Ms. Wilson and Mr. Danley are asserting that the ARDC Hotline provided an ethics opinion which allowed Ms. Wilson's relationship with her mother to remain hidden from the Defendants in all criminal matters in which they appeared together (over two hundred cases).

Mr. Danley could have easily assigned Ms. Wilson into a different courtroom to avoid the conflict with her mother in Mr. Tompkins case. Mr. Danley asserted that avoiding a conflict was as simple as a disclosure and waiver, when Ms. Wilson and PD Matthews appeared opposite each other. No waiver exists in Mr. Tompkin's case. In fact, none were ever discussed.

Mr. Danley stated this assignment was permissible under the rules of professional conduct. This does not address the fact that the two attorneys, Wilson/Matthews relationship is the conflict. The fact that the conflict is not shared by the other members of the Coles County State's Attorney's Office does not provide a legal justification for engaging in the conflict in Mr. Tompkin's case. No disclosures were made to Mr. Tompkin in which the mother/daughter attorney pair appeared opposite and adverse based upon an "ARDC hotline opinion" and Mr. Danley's own opinion and the opinion of the Illinois Appellate Prosecutor's Office. No discovery was filed on behalf of Mr. Tompkin. No discovery was provided by the State to Mr. Tompkin.

Institutionalized Conflict

The Defendant Mr. Tompkin (a black male with profound hearing disabilities) was the victim of the initial racial attack. As an indigent person Defendant Mr. Tompkin had no choice but to accept the conflicted public defender assigned by Judge O'Brien, attorney Terese Matthews. This familial relationship was intentionally concealed from Mr. Tompkin. The Defendant Mr. Tompkin was not made aware of the judicially sanctioned conflict of interest in his case. The Defendant Mr. Tompkin was not told of the "accord" with the attorneys and the trial judge, to hide the conflict from the Defendant Mr. Tompkin. Mr. Tompkin has, and continues to be, injured by this conflicted pairing in his criminal case. Mr. Tompkin believes his confidences were shared through private communications between the mother daughter pair. Mr. Tompkin suspects money or gifts were exchanged between the mother and daughter. Mr Tompkins questions whether Terese Matthews was paying Maggie Wilsons debts via restitution to the ARDC victims of Ms. Wilson?

Mr. Tompkins did not waive a defendant's constitutional right to a non-conflicted

defense attorney. Mr. Tompkin did not waive his right to a non conflicted prosecutor. Mr. Tompkin did not waive his right to a disinterested judiciary. Under what authority can any attorney speak for Mr. Tompkin's rights to a non conflicted judicial process. How can Mr. Danley assume to speak for the judiciary? How can Mr. Danley assume to speak for Terese Matthews' as to Mr. Tompkin's rights.

Mr. Tompkin (a black male with disabilities) alleges an ex-parte agreement (accord) between four contracting parties (Judges, State's Attorney, Public Defender, Illinois Appellate Prosecutor) (all white) to accept alternate performance in Mr. Tompkin criminal matter to discharge a pre-existing duty between them and the subsequent performance (satisfaction) of that agreement to deprive him of his constitutional right to a non conflicted council and a non conflicted prosecutor and judiciary. The Defendant Mr. Tompkin questions the ethics of this "accord" its genesis , its members , its content and its effect on Mr. Tompkin's constitutional rights in this case.

ARDC Ethics Inquiry Program

The use the ARDC Hotline for legal advice, ethics opinion or in defense of charges of misconduct, is strictly prohibited. Each attorney knew or should have known that the ARDC Ethics Program does not give legal advice or binding advisory opinions to anyone. Further FOIA responses by the Coles County States Attorney demonstrated such information, in fact, never existed.

The Defendant Mr. Tompkin asserts it is unethical for attorneys to communicate to Judge O'Brien that they had in fact an ARDC "advisory opinion," since as a matter of law, they cannot exist. On information and belief, it is this imaginary ARDC "advisory opinion" that the attorneys have presented to Judge O'Brien, (See affidavit O'Brien) and public inquiries as the "legal "authority to engage in the mother/daughter conflict. The Defendant Mr. Tompkin asserts Mr. Danley's ARDC opinion was not only an imaginary opinion but also non-existent. The ARDC hotline is anonymous and does not keep any records of the alleged contact. The Defendant Mr. Tompkin asserts that the ARDC hotline opinion used as controlling authority by Mr. Danley in his communication to Judge O'Brien is a misrepresentation of fact and law. It was provided and given to Judge O'Brien and others to explain the legal justification or to excuse the mother/daughter conflict and to present the ARDC as the controlling authority .

The ARDC ethics program states as follows:

"We cannot give either legal advice or a binding advisory opinion. Information provided through the Program will, in many instances, resolve any issue regarding the propriety of a lawyer's course of conduct. Before rendering assistance to any caller, Commission counsel will disclose that only legal research assistance is being provided, that no legal opinion is being furnished, and that the caller is responsible for making his or her own final judgment on the ethical issues presented."

Illinois Appellate Prosecutor Opinion

The attorneys have asserted that they requested and then received legal advice and /or an advisory opinions from the Illinois Appellate Prosecutor's Office. Further Mr. Danley's response to FOIA request for such information revealed in fact the request and or opinion never

existed nor was requested as stated to the Illinois Supreme Court by the attorneys.

The Defendant Mr. Tompkin asserts it is unethical for any attorney to communicate to Judge O'Brien that they had in fact an Illinois Appellate Prosecutor's Office "advisory opinion," since as a matter of fact, it doesn't exist and never has existed.

On information and belief, the Illinois Appellate Prosecutor's Office "advisory opinion" that the attorneys presented to Judge O'Brien, (See affidavit O'Brien) and public inquiries as the "legal" authority to engage in the mother/daughter conflict. The Defendant Mr. Tompkin asserts the use of Illinois Appellate Prosecutor's Office ethics opinion was non-existent. The Illinois Appellate Prosecutor's Office does not have any records of the alleged contact.

Mr. Tompkin asserts that the Illinois Appellate Prosecutor's Office opinion was used as controlling authority by the attorneys in their communication to Judge O'Brien is a misrepresentation of fact and law. It was provided and given to Judge O'Brien as legal justification or to excuse the mother/daughter conflict and to present it as controlling authority to defraud the Defendant Mr. Tompkin of constitutional rights to a disinterested prosecutor, judge and defense council.

Questions To Attorneys

Mr. Tompkins would request the attorneys to:

- explain the date, time and place of the alleged ARDC hotline call regarding the potential conflict with ASA Wilson and her mother, PD Matthews.
- explain the hypothetical question which was posed to the ARDC hotline by Mr. Danley or ASA Wilson about the potential conflict with her mother, PD Matthews.
- explain exactly what course of action the ARDC hotline recommended to Danley/Wilson in response to the inquiry as to the conflict between ASA Wilson and her mother, PD Matthews.
- explain exactly when, where and under what circumstances the conflict between ASA Wilson and PD Matthews was discussed with ASA Wilson's supervisor Mr. Danley.
- explain exactly which judge and under what circumstances the conflict with ASA Wilson and her mother, P.D. Matthew's was discussed at any time.
- provide copies of any form of written communications, voicemails, emails, text messages, cell phone records, any form of communication supporting the claim made by Mr. Danley and/or Wilson that the ARDC provided any "advisory opinion" on the propriety of ASA Wilson and PD Matthews appearing opposite and adverse to each other in criminal court.
- provide the date, time and place and provide any supporting documentation in which Mr. Danley was informed of the ARDC hotline opinion as to the conflict between mother/daughter.
- provide the date, time, and specific attorney or person issuing the ethics "opinion" and any supporting facts or documents that were submitted to and received from the

Appellate Prosecutor's Office in support of the opinion that the mother/daughter conflict between ASA Wilson and PD Matthews was proper.

-explain if Mr. Danley has knowledge of ASA Wilson and PD Matthews having conversations, communications, oral or written about ongoing criminal cases using personal emails, personal cell phones, personal text messages, voicemails, personal Facebook messaging on pending, past or present Coles County criminal cases, including the Mr. Tompkin's case.

-provide the date, time, and place and names of specific judges who were a part of the "accord" cited by Mr. Danley in relation to the conflict between ASA Wilson and PD Matthews.

-explain if Mr. Danley, Matthews, and Wilson are aware of any financial transactions, gifts, loans, or cash were exchanged between Wilson and Matthews during the time they were appearing opposite and adverse to each other in Mr. Tompkin's case.

-explain why the FOIA responses for all communications between ASA Wilson and PD Matthews for over two hundred case and only consist of 49 emails, some of which didn't relate to any of the cases, and one which related to a felony matter between ASA Wilson and PD Matthews. And no communication in Mr. Tompkin's case.

-explain the absence of plea offers, disclosures of evidence and normal correspondence being exchanged in over hundred cases which settled in pleas between the mother/daughter pair disclosed in the FOIA response and in Mr. Tompkin's case.

-explain what form of communications took place between ASA Wilson and PD Matthews for Defendant Mr. Tompkin's case.

-explain if the accord with the judiciary was for Defendant Mr. Tompkin exclusively or for all the Defendants or only the African American males ?

The Defendant Mr. Tompkin would like to question.:

Why was ASA Wilson placed into a personal conflict when other easier, less conflicted choices were available in Mr. Tompkin's case?

Why would Mr. Danley feel the need to reach an accord with the Coles County Judiciary for a non-existent conflict in Mr. Tompkins case?

How can you claim the mother/daughter conflict which was not "hidden" from anyone, when it in fact was not disclosed to Mr. Tompkins as required by law?

Why if there is no conflict of interest, in Mr. Tompkins case would you seek or need an ARDC opinion?

Why if there is no conflict of interest, in Mr. Tompkins case would you seek or need an Illinois Appellate Prosecutor opinion?

Why if there is no conflict of interest, in Mr. Tompkins case would you seek or need Judge O'Brien approval prior to appointing Matthews opposite her daughter Wilson .

Why would the judges have stopped Matthews/Wilson from engaging in the conflict in Mr. Tompkins case if the Coles County State's Attorney's office had an existing "accord" in place to allow the conflict?

Why do Wilson, Matthews and Danley all claim the use of an ARDC opinion when attorneys know it can't be used or confirmed?

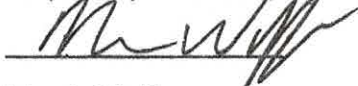
Why do Wilson, Matthews and Danley all claim the use of an an Illinois Appellate Prosecutor opinion that doesn't exist?

Why does the response submitted by Mr. Danley not give specific names, dates, times and individual sources of the opinions cited to justify the conflict of interest in Mr. Tompkin's criminal case?

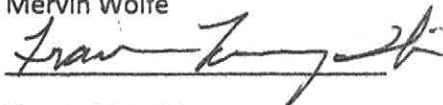
Why was the accord with the judiciary reached before Mr. Tompkins was charged with battery?

The conflict of interest between mother and daughter was known and implemented within the judicial circuit despite the specific rule requiring notice and waivers to Mr. Tompkin. This conflict existed in Mr. Tompkin's case and exists in hundreds of others. The lack of any communications and documentation in Mr. Tompkin's case creates concerns of constitutional violations of the individual rights guaranteed under the Illinois and United States Constitution and decisional law. The right to a disinterested prosecutor and the right to unfettered defense counsel are axiomatic with our form of justice.

Respectfully submitted,



Mervin Wolfe



Travon Tompkin