

STATE OF DELAWARE

V.

JAPHIS LAMPKINS

Defendant.

ID No. 80001076DI

Submitted: March 3, 2016

Decided: June 29, 2016

*Upon Defendant's Motion For Recusal, **DENIED.***

ORDER

AND NOW, TO WIT: this ____ day of _____ 2016, the Court finds as follows:

1. The Defendant has filed a Motion for Recusal of Judge raising concerns that the Court may be unable to fairly determine matters before the Court because this Judge was a Deputy Attorney General at the time of trial and the incident that gave rise to the charges for which he now stands convicted.

2. The Defendant further requests that the Court vacate a prior order denying trial transcripts.

3. Finally, the Defendant indicates that this Judge was the Attorney General at the time that evidence in his matter held in the Prothonotary's office was destroyed, and therefore should recuse from the case.

4. This Judge was not assigned any role as a Deputy Attorney General in the Defendant's original case, and while generally familiar with the facts underlying the charges, some of which familiarity comes from news coverage, has no bias regarding the Defendant as a result.

5. This Judge had no direct involvement in, or even knowledge of, any decisions regarding the disposition of exhibits in the Prothonotary's office related to Defendant's trial.

6. When a Judge has had no direct involvement or participation in a matter they need not recuse.¹

7. A Judge should recuse if the Judge has a bias or prejudice in the matter or there is an appearance of impropriety if the Judge handles the matter.²

8. No such circumstances exist in this matter. This Judge had no bias or prejudicial view of the Defendant personally or the merits of his claims, and there are no circumstances that would reasonably call into question the Court's impartiality in handling the matter.

For the reasons stated, the Defendant's Motion for Recusal of Judge is **DENIED**.

IT IS SO ORDERED.

_____/s/_____
M. Jane Brady
Superior Court Judge

¹ *State v. Madison*, 2015 WL 1119540, at *5 (Del. Super. Ct. Mar. 10, 2015) (quoting *United States v. Oluwafemi*, 883 F.Supp. 885, 892-93 (E.D.N.Y. 1995) ("A judge who formerly served as a prosecutor may preside 'over cases involving former colleagues who are still prosecutors, provided [the judge] had no involvement in the cases while [he or she] was a prosecutor.'" (emphasis added)).

² *State v. Desmond*, 2011 WL 91984, at *7 (Del. Super. Ct. Jan. 5, 2011) (quoting Delaware Judge's Code of Judicial Conduct R. 2. 11(A) (2008) ("[I]t is a truism that '[a] judge should disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be question.' This includes instances where '[t]he judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceedings . . .").