

CAUSE NO. CR 35515

THE STATE OF TEXAS	§	IN THE COUNTY COURT
V.	§	OF
PATRICK VADEN	§	MILAM COUNTY, TEXAS
	§	

SUPPLEMENTAL MOTION TO RECUSE

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes Patrick Vaden, Defendant in the above entitled and numbered cause, by and through undersigned counsel, and makes this Supplemental Motion for Recusal and shows the following:

I.

Pursuant to Texas Rules of Civil Procedure 18a and 18b, and Texas Code of Judicial Conduct, Canon 3.B.(8)(b), Defendant objects to County Judge Steve Young hearing the above styled and numbered case and moves for recusal.

Texas Rule of Civil Procedure 18b(2)(a) states that a judge shall recuse himself in any proceeding in which his impartiality might reasonably be questioned. The appearance of partiality is a sufficient basis for recusal. Actual partiality is not required.

While serving as County Judge, Judge Young signed a RESOLUTION DESIGNATING MILAM COUNTY A SECOND AMENDMENT SANCTUARY (hereafter Resolution) (attached as Exhibit A) passed by the Milam County Commissioner's Court.

The Resolution that Judge Young signed states in part that the Commissioners Court of Milam County....."resolves to support the decisions of the Sheriff of Milam County and the District Attorney of Milam County to **refuse enforcing** unconstitutional

firearms restrictions against any citizens and further that no County funds shall be budgeted or expended in pursuit of any unconstitutional infringement on the right to keep and bear arms as set forth in the Constitution of the United States and the Texas Constitution.

The Resolution further states that ...”local governments have the legal authority to refuse to cooperate with state and federal firearms laws that violate those rights enumerated in the Constitution;” and that....”both the Sheriff of Milam County and District Attorney of Milam refuse to enforce unconstitutional firearms restrictions.”

The only reasonable interpretation of the Resolution is that Judge Young supports the Sheriff and District Attorney’s refusal to enforce a State or Federal law that in their opinion violates the Constitution.

The Resolution is nothing more that a step towards anarchy.

Basic civics teaches us the constitutional procedure of how laws are passed and enforced.

In Texas, a proposed statute is passed by the House of Representatives and the Senate. The Governor then signs the law.

In the United States, a proposed statute is passed by the House of Representatives and the Senate. The President then signs the law.

It may be that a citizen believes that a law is unconstitutional. That citizen makes his/her argument in court. The court hears evidence, listens to witnesses, considers documentary evidence, considers the legal arguments and briefs of each side. The court can then make an informed decision on the constitutionality of the law. The losing

side can appeal the case through the State or Federal Courts up to the United States Supreme Court.

By his sworn oath, Judge Young does not have the legal authority to refuse to enforce the law even if he disagrees with it, Resolution or no Resolution. If he does, then that is anarchy. We are a government of laws. No man, no County Judge, no County Sheriff, no District Attorney is above the law. PERIOD.

And contrary to the Resolution, a local government does not have the legal authority to refuse to cooperate with state and federal firearms laws.

By signing the Resolution, Judge Young has violated his sworn oath. Judge Young is not impartial in this case or any other case because he believes he is the final authority on the constitutionality of any law.

No reasonable person would doubt a judge's impartiality who has signed such a resolution in a case involving the offense of Unlawful Carry of a Weapon. A judge is subject to recusal when the average person in the street could reasonably doubt the judge's impartiality. *Rogers v. Bradley*, 909 S.W.2d 872, 881 (Tex. 1995) (Enoch, J., responding to declaration of recusal).

#### THE ESSENCE OF FAIR JUDGING

The essence of fair judging is an open mind. Justice Anthony Kennedy wrote:

*"If a judge's attitude or state of mind leads a detached observer to conclude that a fair and impartial hearing is unlikely, the judge must be disqualified. Indeed, in such circumstances, I should think that any judge who understands the judicial office and oath would be the first to insist that another judge hear the case.*

*Liteky v. United States*, 114 S.C. 1147, 1162 (1994)(Kennedy, J., concurring.

The Preamble of the Texas Code of Judicial Conduct states the same principle:

*"Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to American concepts of justice and the rule of law. Intrinsic to all sections of this Code of Judicial Conduct are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system. The judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the **rule of law** (emphasis added)."*

#### HISTORICAL BASIS

As long as we have had judges, we have expected them to be open-minded. The Talmud instructed that "[e]very judge who judges a case with complete fairness even for a single hour is credited by the Torah as though he had become a partner to the Holy One, blessed be He, in the work of creation."

The Code of Justinian provided for recusal: *"Although a judge has been appointed by imperial power yet because it is our pleasure that all litigations should proceed without suspicion, let it be permitted to him, who thinks the judge under suspicion to recuse him before an issue joined, so that the cause go to another."*

#### COUNTY JUDGE

Under the Texas Constitution, Article 5, Section 16, the County Judge is the presiding officer of the County Court and has judicial functions as provided by law.

Before undertaking the duties of County Judge, a person must take the official oath. Tex.Const., art. XVI, Section 1, Tex. Loc. Gov. Code Section 81.002.

## THE OATH

A County Judge must swear or affirm that he/she will faithfully execute the duties of County Judge.....and that he/she will to the best of his/her ability preserve, protect, and defend the Constitution and laws of the United States and the State of Texas.

## CODE OF JUDICIAL CONDUCT

The Texas Code of Judicial Conduct contains canons that regulate the conduct of judges. The penalty for violating the Code is discipline by the Texas Judicial Conduct Commission. Violations of the Code, however, may coincide with laws requiring disqualification or removal. Canon3(b)(5), for example, requires that judges perform judicial duties without bias or prejudice.

## CIVIL RULES APPLY

Defendant invokes the provisions of Rule 18a, TRCP: Recusal and Disqualification of Judges. These rules apply in criminal cases. See *Deblanc v. State*, 799 S.W. 2d 701 (Tex. Crim. App. 1990) *Arnold v. State*, 853 S.W. 543 (Tex. Crim. App. 1993).

Rule 18b(b) 1 provides that a judge must recuse in any proceeding in which the judge's impartiality might reasonably be questioned, and Rule 18b(b) 2 provides that a judge must recuse in any proceeding in which the judge has a personal bias or prejudice concerning the subject matter or a party.

Judge Young is absolutely barred from hearing any more contested matters. Judge Young is not impartial and he definitely has a personal bias and prejudice concerning federal and state gun laws.

Rule 18a provides that after recusal, the presiding judge of the administrative judicial district must assign this case to another judge to sit. Tex. R. Civ. P. 18a(c).

Rule 18a(d).

If Judge Young declines to recuse himself, rule 18a(d) requires that this motion be forwarded to the presiding judge of the administrative judicial district, who has authority to set the motion for hearing and to make other orders that may be required by justice.

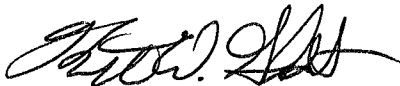
This motion to recuse is timely filed, more than 10 days before the trial or any hearing in this case.

NOTICE UNDER TEXAS RULE OF CIVIL PROCEDURE 18a(b)

Please take notice that, on \_\_\_\_\_, 2020 Defendant filed a motion to recuse in the above-numbered cause. Movant expects that the motion will be presented to the judge within three days of its filing unless otherwise ordered by the judge.

Pursuant to Texas Code of Judicial Conduct, Canon 3.B.(8)(b), Judge Young cannot hear any contested matters between the parties.

Respectfully submitted,



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ATTORNEY FOR DEFENDANT

STATE OF TEXAS

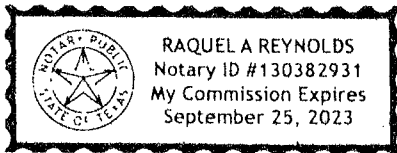
COUNTY OF BELL

BEFORE ME, the undersigned notary public, on the 12<sup>th</sup> day of February, 2020, personally appeared Kurt Glass, who being by me duly sworn, stated under oath that he is attorney for Patrick Vaden in the above styled and numbered cause; that he has read this motion; and that every statement contained in it is either within his personal knowledge and is true and correct, or is based on information and belief, based on the Resolution attached to this motion.

Kurt Glass  
Kurt Glass

SUBSCRIBED AND SWORN TO before me on this 12<sup>th</sup> day of February, 2020, to certify which witness my hand and seal of office.

Raquel A Reynolds  
Notary Public in and for the State of Texas  
My Commission Expires: September 25, 2023



#### CERTIFICATE OF SERVICE

This is to certify that on February 12<sup>th</sup>, 2020, a true and correct copy of the above and foregoing document was served on the State's attorney of record by fax and/or email or electronic filing.