

IN THE DISTRICT IN AND FOR TULSA COUNTY  
STATE OF OKLAHOMA

DISTRICT COURT  
FILED

MAR 09 2022

DON NEWBERRY, Court Clerk  
STATE OF OKLA. TULSA COUNTY

THE STATE OF OKLAHOMA, )  
)  
Plaintiff, )  
)  
vs. )  
)  
DAVID ANTHONY WARE. )  
)  
Defendants. )

Case No. CF-2020-2889

Judge William D Lafortune

MOTION TO “NOT POLITICIZE THE DEATH PENALTY”

Comes now David Ware, by and through undersigned counsel and presents his “Motion Not To Politicize the Death Penalty”. Counsel **objects** to the current plan to start Mr. Ware’s trial in April, where the trial will have to be stopped for the judge and district attorney to travel to State Capital to file for re-election. In support of this motion counsel shows the Court the following:

INTRODUCTION

The U.S. Department of Justice (Office of Justice Programs) has on their website and abstract of a book titled:

**“Killing for Votes:  
The Dangers of Politicizing the Death Penalty Process<sup>1</sup>”**  
(See Attached Exhibit A)

In the abstract<sup>2</sup> of this book, it says the following:

**In 32 of the 38 States with the death penalty, judges are subject to election.** Some of those elected judges have abandoned the independence of their office by such actions as throwing a noose over a tree outside the

1. Counsel realizes this is a sensitive subject, however since “structural errors” are “a very limited class” of errors that affect the “framework within which the trial proceeds,” Johnson, supra, at 468, 117 S.Ct. 1544, ...if counsel does not raise the issue it will be subject to the “plain error” standard where “the error is “clear or obvious, rather than subject to reasonable dispute”;  
*U.S. v. Marcus*, 560 U.S. 258, 262 (2010)

<sup>2</sup> <https://www.ojp.gov/ncjrs/virtual-library/abstracts/killing-votes-dangers-politicizing-death-penalty-process>

courthouse, coming into court displaying brass knuckles and a gun, revealing their death verdicts before the defendant even comes to trial, boasting about being a "hanging judge," **and issuing election press releases that prejudice a capital defendant during trial. Even when judges do not go to such extremes, they sometimes campaign as law-and-order candidates in the midst of death penalty trials, overturn jury recommendations of life sentences, and replace them with death sentences. On the other hand, judges who have the courage to follow the Bill of Rights, which mandates that a particular death sentence be overturned, are often removed from office in the next election solely because of a single opinion. Prosecutors, who are trusted with the unreviewable decision about whether to seek the death penalty, run for office pledging to have even more offenders executed. In such a climate, it is difficult for a defendant, who may well be innocent, to obtain a fair hearing. The outcomes in individual cases can be affected as judges feel the pressure to uphold death sentences, and even innocent defendants can find themselves facing execution if the judge might lose his/her job in the next election for faithfully interpreting the law.**

After reading what was listed on the Department of Justice's website, counsel concluded that if the United States Department of Justice thought it was important enough to place this on their website, that they probably had a good reason.

### THE CONCERN

Mr. Ware's upcoming trial is scheduled to begin and last the entire month of April. As counsel expressed in open court on March 8, 2022, counsel has concerns that during Mr. Ware's trial that the trial will have to be stopped so the Judge, William Lafortune, and the Prosecutor, Steve Kunzweiler, can drive to Oklahoma City and register for re-election. Counsel probably did a poor job of explaining his concerns to the Court, so he has expressed his objection in writing, so the record will be clear.

In *Killing for Votes: The Dangers of Politicizing the Death Penalty Process*<sup>3</sup> it is written in the introduction:

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<sup>3</sup> <https://deathpenaltyinfo.org/facts-and-research/dpic-reports/in-depth/killing-for-votes-the-dangers-of-politicizing-the-death-penalty-process>

The infusion of the death penalty into political races is reaching new extremes and distorting the criminal justice system. Although the use of death sentences to gain political leverage is certainly not new, the demagoguery aimed at escalating executions has become more pervasive. Not only are candidates for legislative office campaigning loudly on the death penalty, even judges and local prosecutors are citing the numbers of people they have sent to death row in their campaigns for office. This political promotion of capital punishment by those responsible for interpreting and implementing the law interferes with the right to a fair hearing and increases the likelihood that innocent defendants will be executed.

(See Introduction of in *Killing for Votes: The Dangers of Politicizing the Death Penalty Process*)

### **THE DEATH PENALTY WAS POLITICIZED DURING MR. KUNZWEILER'S LAST ELECTION**

As counsel mentioned in open court on March 8, 2022 and has previously referenced on page 16 of the SUPPLEMENTAL MOTION TO STRIKE ORDER PREVENTING PUBLIC RELEASE OF INFORMATION filed on July 20, 2020<sup>4</sup>:

...before the last election in 2018, the Tulsa County District Attorney's Office filed six (6) requests for the death penalty against six (6) separate defendants in five (5) cases and then after Steve Kunzweiler won reelection every single request for the death penalty was dismissed.

Just as it was written in *Killing for Votes: The Dangers of Politicizing the Death Penalty Process*, the infusion of the death penalty into political races is reaching new extremes and distorting the criminal justice system.

Mr. Kunzweiler's pursuit of the Death Penalty against these defendants somehow found its way into an article about how "tough on crime" Mr. Kunzweiler was during the last election. In an article written by Samantha Vicent and published in the Tulsa World on October 2018, "Incumbent Tulsa

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<sup>4</sup> Counsel believes that the Court's review of this motion would assist the Court in understanding Counsel for Mr. Ware's position.

County DA asks for chance to ‘finish what he’s started;’ challenger says he is ‘embodiment’ of outdated ‘tough-on-crime’ approach”<sup>5</sup>, it was written:

The past two years saw Tulsa record more than 80 homicides per year. Of those charged in connection with those homicides, six defendants across five cases face the possibility of the death penalty. The first trial, which is against Gregory Epperson, is scheduled to start in December.

(See attached Exhibit B, “Incumbent Tulsa County DA asks for chance to ‘finish what he’s started;’ challenger says he is ‘embodiment’ of outdated ‘tough-on-crime’ approach”)

The Gregory Epperson case (Tulsa County Case No. CF-2017-2056) that was the “death penalty<sup>6</sup>” case scheduled to begin the month after the district attorney’s election, was resolved on December 19, 2018 with a life without the possibility of parole sentence. The court minute reads as follows:

JUDGE DOUG DRUMMOND. DEFENDANT PRESENT, IN CUSTODY, REPRESENTED BY SHENA BURGESS & BEVERLY ATTEBERRY. STATE REPRESENTED BY KEVIN GRAY. COURT REPORTER IS KIM DEBOARD. CASE CALLED FOR STATUS CONFERENCE. DEFENDANT SWORN IN OPEN COURT, WAIVES JURY & NON JURY TRIALS, ENTERS A PLEA OF GUILTY. COURT ACCEPTS DEFENDANT'S PLEA, FINDS DEFENDANT GUILTY. COUNT 1 - LIFE IN THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS, WITHOUT THE POSSIBILITY OF PAROLE. \$100.00 VICTIM'S COMPENSATION ASSESSMENT. COUNT 2 - LIFE IN THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS. \$100.00 VICTIM'S COMPENSATION ASSESSMENT. COUNTS TO RUN CONCURRENT WITH EACH OTHER; WITH CREDIT FOR ALL TIME SERVED & EARNED. **STATE STRIKES THE BILL OF PARTICULARS.** DEFENDANT ADVISED OF APPEAL RIGHTS. RULE 8 AND JUDGMENT & SENTENCE ISSUED. BOND EXONERATED. COMMITMENT ISSUED TO JAIL.

(See 12-19-2018 court minute in *State v. Gregory Epperson*, CF-2017-2056)

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<sup>5</sup> [https://tulsaworld.com/news/local/incumbent-tulsa-county-da-asks-for-chance-to-finish-what-hes-started-challenger-says-he/article\\_b2b70206-f769-5321-8709-d3de0d8b118a.html](https://tulsaworld.com/news/local/incumbent-tulsa-county-da-asks-for-chance-to-finish-what-hes-started-challenger-says-he/article_b2b70206-f769-5321-8709-d3de0d8b118a.html)

<sup>6</sup> See Attached Exhibit C—“Bill of Particulars” signed by Steve Kunzweiler on September 2017, one year and two months before the election date of November 6, 2018 re-election

Mr. Kunzweiler signed the Bill of Particulars himself, campaigned as “tough on crime”, and made sure that the local media was aware that “six defendants across five cases face the possibility of the death penalty” and then after his re-election Mr. Kunzweiler, Kevin Gray (his co-counsel on Mr. Ware’s case) quietly dismissed the Bill of Particulars and plead the case out.

In that same article Mr. Kunzweiler tells the public;

“I’m so frustrated with how we **fund the judicial system**. I don’t like how **my** courts are **underfunded**,” Kunzweiler said. “I **don’t like** how the **Public Defender’s Office** is **underfunded**. We are such a critical component to other things that happen in our community, and I really want the Legislature to look at that.”

(See attached Exhibit B, “Incumbent Tulsa County DA asks for chance to ‘finish what he’s started;’ challenger says he is ‘embodiment’ of outdated ‘tough-on-crime’ approach”)

What the public probably did not understand is that by filing the bill of particulars in each of these “six defendants across five cases” that faced “the possibility of the death penalty” that that Title 22 O.S. § 1355.13 provides that lead counsel for each case would receive \$20,000 and co-counsel would receive \$5,000. That means by statute the filing of the death penalty request, Mr. Kunzweiler knew he would likely cost the tax payers at least \$150,000<sup>7</sup>.

Furthermore, in addition to the \$145,000 we know Mr. Kunzweiler costs the taxpayers, there were “expert” and “investigative services” incurred in these cases. For example in *State v. Gregory Epperson*, CF-2017-2056, the court minutes of 11-27-2017 and two orders on 7-25-2018 indicate they were for defense services. It is not know how much these services costs because they are under seal. There are other sealed orders in this case and it is unknown whether or not they were also for payment of services.

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<sup>7</sup> For the record on *State v. Michael Riddle*, Tulsa County Case No. CF-2016-6487, Kevin Adams counsel for Mr. Ware handled the case. Once counsel got involved it was obvious the state was not serious about pursuing the death penalty so Carla Stinnett co-counsel did little work on the case and graciously agreed to waive any fees so the tax payers did not have to pay her \$5,000. Additionally, Mr. Adams never sought the appointment of experts so the taxpayers never had to pay for experts. The case was tried by Mr. Adams alone in January of 2020 and resulted in an acquittal on First Degree Murder and Ms. Riddle received a conviction on Second Degree. Ms. riddle’s case is currently on appeal.

Counsel believes the money wasted by Mr. Kunzweiler is relevant because of the pending *Motion to Declare Oklahoma's Conflict Death Penalty Compensation Scheme And Court Funding Model Unconstitutional with Brief in Support* filed on March 8, 2022. As counsel explained on page 10 of that motion:

While prosecutors are being paid a salary of \$50 to \$68 per hour plus benefits, have overhead provided and all the resources that comes with representing the state, the defendant is represented by a lawyer that could earn more money working as a barista, if office overhead was not a factor, and is actually loosing money when office overhead is considered.

(See *Motion to Declare Oklahoma's Conflict Death Penalty Compensation Scheme And Court Funding Model Unconstitutional with Brief in Support*, page 10)

As lawyers like Stephen Lee struggle to support their families in their selfless efforts to save their client's lives<sup>8</sup>; politicians like Mr. Kunzweiler say publicly that our system is "underfunded", publicly express concern that the public defender's office "underfunded" and then show up to court and fight to keep an underfunded "conflict capital compensation scheme" in place, because it gives him an advantage. **Counsel for Mr. Ware are "public defenders"** on this case.

Politicians like Mr. Kunzweiler do all of this after squandering hundreds of thousands of dollars of tax payer money by seeking the "death penalty" against multiple defendants and campaigning on being "tough on crime" and then dismissing the death penalty request after the win re-election.

If politicians would not waste the money entrusted to them, there would be plenty of money to pay lawyers like Mr. Lee whose sense of justice is so strong, that not only will he work for free, he will make great financial sacrifices to save his client from the execution chamber. All of this is nice and

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<sup>8</sup> Mr. Lee described himself as being "in a lucky boat where I had a wife that worked that could help things out, but if I had not, I wouldn't have been able to pay my bills." When asked whether he came "close to bankruptcy"? Mr. Lee responded that "If not for her, yes, it would have." (February 25, 2022, Tr. pg. 20, Lines 6-11) (See *Motion to Declare Oklahoma's Conflict Death Penalty Compensation Scheme And Court Funding Model Unconstitutional with Brief in Support*, page 21)

<sup>9</sup> See Attached Exhibit D "Order Appointing Conflict Defender" filed July 14, 2022.

“legal”, but it is evidence of a constitutionally infirm system and should shock the conscience of the Court.

The “politicization” of the death penalty was also addressed in “The Report of the Oklahoma Death Penalty Review Commission<sup>10</sup>” filed into this record on December 10, 2020.

Several district attorneys reported to the Commission that they felt no political or public pressure to seek the death penalty, and that such pressure would not factor in their charging decisions. However, in a video available online, at least one current Oklahoma district attorney can be heard discussing his support and lobbying for aggressive use of the death penalty.

One scholar argues that as crime became a dominant issue in American politics, the death penalty became “the ultimate vehicle for politicians to demonstrate just how tough they are on crime.”

Candidates for governor of Texas in 1990 argued about which of them was responsible for the most executions and who could do the best job in executing more people. One candidate ran television advertisements in which he walked in front of photographs of the men executed during his tenure as governor and boasted that he had ‘made sure they received the ultimate penalty: death.’ Another candidate ran advertisements taking credit for thirty-two executions. In Florida, the incumbent gubernatorial candidate ran television advertisements in 1990 showing the face of serial killer Ted Bundy, who was executed during his tenure as governor. The governor stated that he had signed over ninety death warrants in his four years in office.

(See “The Report of the Oklahoma Death Penalty Review Commission” page 78)

The commission report also talked about “Bob” Macy, long time Oklahoma County District Attorney, a man who personally accounted for fifteen (15<sup>11</sup>) percent of the death row population nation wide.

Robert “Bob” Macy, district attorney of Oklahoma County for 21 years (1980-2001) sought more death sentences than any individual district attorney in the U.S. The 54 cases he brought ending in a death sentence totaled “more than the current death row populations of Colorado, Indiana, New Mexico, Utah, Virginia, Washington, and Wyoming combined.” Macy won elections by large margins and campaigned on his use of the death penalty, and even ran unopposed in his last election in 1998.

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<sup>10</sup> <https://www.courthousenews.com/wp-content/uploads/2017/04/OklaDeathPenalty.pdf>

<sup>11</sup> See “The Report of the Oklahoma Death Penalty Review Commission” page 79

(See “The Report of the Oklahoma Death Penalty Review Commission” page 78)

### **THE COURT’S RE-ELECTION**

There are things that counsel could highlight and argue concerning the Court’s re-election. However, counsel has chosen not to do that. The Court has reassured counsel for David Ware that he would not have taken the case if he did not believe he could be fair, despite knowing a lots of law enforcement in this community. Counsel takes the court at his word. Counsel does feel compelled to document some things in the event that future counsel for David Ware would ever want to argue to a court that counsel “should have” done something he did not<sup>12</sup>.

Under the heading of “Playing Politics with People’s Lives” the author of *Killing for Votes: The Dangers of Politicizing the Death Penalty Process* wrote:

I gave in to the prestige and power, the things that went with my job. I knew what the Governor ... wanted: no recommendation for clemency in any death case. -Howard Marsellus, former Chair of Louisiana Pardon Board

Judges are not the only ones in elected office for whom the death penalty offers political opportunities. Attorney generals, prosecutors, and members of the state pardon boards can get caught up in this political competition, with dire consequences.

*(Killing for Votes: The Dangers of Politicizing the Death Penalty Process, <https://deathpenaltyinfo.org/facts-and-research/dpic-reports/in-depth/killing-for-votes-the-dangers-of-politicizing-the-death-penalty-processs#playing-politics-with-peoples-lives>)*

### **Conclusion**

In closing counsel has included a quote from United States Supreme Court Justice Sotomayor, in her dissent of the Supreme Court’s denial of a Petition for Writ of Certiorari from the Alabama Supreme Court. Counsel includes this because it reminds us that judges and prosecutors alike are susceptible to and suffer “from the diverse frailties of humankind” *Woodson v. North Carolina*, 428 U.S. 280, 304 (1976) that we all suffer from.

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<sup>12</sup> See Attached Exhibit E



What could explain Alabama judges' distinctive proclivity for imposing death sentences in cases where a jury has already rejected that penalty? There is no evidence that criminal activity is more heinous in Alabama than in other States, or that Alabama juries are particularly lenient in weighing aggravating and mitigating circumstances. The only answer that is supported by empirical evidence is one that, in my view, casts a cloud of illegitimacy over the criminal justice system: Alabama judges, who are elected in partisan proceedings, appear to have succumbed to electoral pressures.

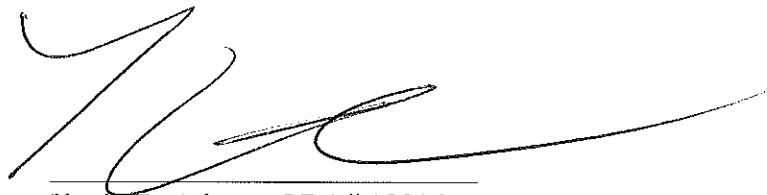
*Woodward v. Alabama*, 571 U.S. 1045, 1050 (2013)

“There is a thing in politics called the “Silly Season.” It is the time when campaigning politicians do whatever they can to get voters’ attention, usually through frivolous and outlandish exploits.<sup>13</sup>”

This case is too important to mix with politics. To start David Ware’s trial, then stop the trial so the judge and the district attorney could drive to the capital and file for re-election, would only add to the politically charged atmosphere in an already politically charged case. This could affect not only the judge, the prosecution, the jurors, but the witnesses as well.

To mix this trial with the start of the re-election campaign would be an invitation for a re-trial because it would create a politically charged atmosphere surrounding the trial which would violate Mr. Ware’s Right to Due Process.

Respectfully Submitted,



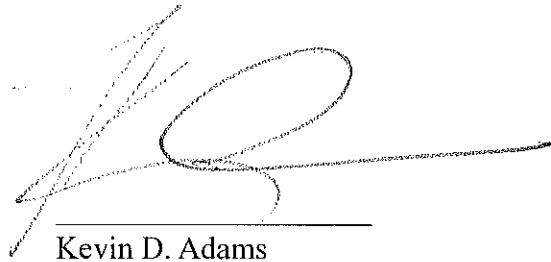
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<sup>13</sup> [https://www.insidenova.com/opinion/nohe-we-deserve-better-than-the-silly-season/article\\_13d1bf2e-8d61-11ec-8467-2b7a72dc9178.html](https://www.insidenova.com/opinion/nohe-we-deserve-better-than-the-silly-season/article_13d1bf2e-8d61-11ec-8467-2b7a72dc9178.html)

**CERTIFICATE OF HAND DELIVERY**

I hear by certify that a copy of the foregoing instrument was mailed on March 9, 2022 to the following:

Steve Kunzweiler  
Tulsa County District Attorney  
Tulsa County Courthouse  
500 S. Denver  
Tulsa, OK 74103



Kevin D. Adams

# Exhibit A



# Killing for Votes: The Dangers of Politicizing the Death Penalty Process

NCJ Number: 171325

Author(s): R C Dieter

Date Published: 1996

Length: 35 pages

## Annotation

The political promotion of capital punishment by those responsible for interpreting and implementing the law (judges and prosecutors) interferes with the right to a fair hearing and increases the likelihood that innocent defendants will be executed.

## Abstract

In 32 of the 38 States with the death penalty, judges are subject to election. Some of those elected judges have abandoned the independence of their office by such actions as throwing a noose over a tree outside the courthouse, coming into court displaying brass knuckles and a gun, revealing their death verdicts before the defendant even comes to trial, boasting about being a "hanging judge," and issuing election press releases that prejudice a capital defendant during trial. Even when judges do not go to such extremes, they sometimes campaign as law-and-order candidates in the midst of death penalty trials, overturn jury recommendations of life sentences, and replace them with death sentences. On the other hand, judges who have the courage to follow the Bill of Rights, which mandates that a particular death sentence be overturned, are often removed from office in the next election solely because of a single opinion. Prosecutors, who are trusted with the unreviewable decision about whether to seek the death penalty, run for office pledging to have even more offenders executed. In such a climate, it is difficult for a defendant, who may well be innocent, to obtain a fair hearing. The outcomes in individual cases can be affected as judges feel the pressure to uphold death sentences, and even innocent defendants can find themselves facing execution if the judge might lose his/her job in the next election for faithfully interpreting the law. 118 references

## Additional Details

**Corporate Author:** Death Penalty Information Center 1015 18th Street NW, Suite 704, Washington, DC 20036, United States  
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# Exhibit B

[https://tulsaworld.com/news/local/incumbent-tulsa-county-da-asks-for-chance-to-finish-what-hes-started-challenger-says-he/article\\_b2b70206-f769-5321-8709-d3de0d8b118a.html](https://tulsaworld.com/news/local/incumbent-tulsa-county-da-asks-for-chance-to-finish-what-hes-started-challenger-says-he/article_b2b70206-f769-5321-8709-d3de0d8b118a.html)

# Incumbent Tulsa County DA asks for chance to 'finish what he's started;' Challenger says he is 'embodiment' of outdated 'tough-on-crime' approach

Tulsa World



By Samantha Vicent Tulsa World

**I**n seeking a second term in office, incumbent Republican Tulsa County District Attorney Steve Kunzweiler asks voters to let him “finish what he’s started” doing to improve courthouse operations.

But his challenger, Democratic candidate Jenny Proehl-Day, says she can bring needed change and called her one-time boss “the embodiment of tough on crime” strategies that propelled Oklahoma to the top of the list in incarceration rates.

“I’m one of those people that kind of subscribes to the theory that you should pour yourself into whatever you do. That’s what public servants are supposed to be doing,” Kunzweiler said in an interview ahead of Tuesday’s general election.

Among his most-cited accomplishments are helping with the creation of specialty teams for cases such as homicides, domestic violence and sex crimes, gang-related offenses, robberies and crimes against

children, as well as his staff's successful prosecutions of defendants like Michael Bever, Shannon Kepler, Stanley Majors and Robert Bates.

## **People are also reading...**

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- 3 Oklahoma State, women's basketball coach Jim Littell "mutually agree" to part ways after 11 seasons**
- 4 Rents are skyrocketing across Tulsa as the city faces a shortage of affordable housing**

Proehl-Day, a former prosecutor who has her own private practice, told the World that data she's seen indicates Kunzweiler's administration isn't committed to diversion strategies despite Kunzweiler's claims that he is friendly to alternative courts.

“Everything he does is counter-intuitive to turning things around and going the way the community wants him to go,” she said. “I have seen a decrease in enrollment in alternative courts and that's a direct result of this district attorney's office declining people. I've seen an increase in the number of possession with intent to distribute cases.”



Although Kunzweiler and Proehl-Day once worked together under former District Attorney Tim Harris, the two have opposite views on how the office should interact with those who enter the justice system. One of the only issues the candidates agree on is the injustice in having an agency funded largely by fines and court costs imposed on defendants.

“I’m so frustrated with how we fund the judicial system. I don’t like how my courts are underfunded,” Kunzweiler said. “I don’t like how the Public Defender’s Office is underfunded. We are such a critical component to other things that happen in our community, and I really want the Legislature to look at that.”

Proehl-Day has contended the passage of State Question 780, which made simple drug possession a misdemeanor, resulted in a shift toward filing charges alleging possession with intent to distribute because that crime is a felony. In response to Proehl-Day’s comments, Kunzweiler said “I’d like to see statistics” before anyone makes such a claim about Tulsa County, which he says “embraces” alternative court efforts.

“The current DA was not in support of 780 or (State Question) 788. He said (788) was a recreational (marijuana) use bill in disguise,” Proehl-Day said. “Any type of reform happens because they (Kunzweiler’s administration) has been drug along kicking and screaming.”

But Kunzweiler said his records show many recent DOC receptions from Tulsa County were charged with crimes that occurred in 2015 or 2016, which was before SQ 780 took effect.

“I would challenge the assertion that there is some effort to circumvent proposition 780. I think it’s also important to look at Tulsa in 2016 and 2017 and look at our homicide rates,” he said. “Now those were record-breaking years, right? And then look at the law enforcement response to try and attack that problem. You know, I know many of our murders are the result of illegal drug activity.

“The U.S. Attorney’s Office and many of the local law enforcement agencies all partnered up ... Just look at all those operations that happened within the last, I’d say, two years.”

Asked about reports of increases in incarceration for drug crimes, Kunzweiler said, “A component of that might be that we’ve made a decision to get very aggressive after the drug dealers in the community because of the violence that was associated with that was spiking our homicide rate.”

The past two years saw Tulsa record more than 80 homicides per year. Of those charged in connection with those homicides, six defendants across five cases face the possibility of the death penalty. The first trial, which is against Gregory Epperson, is scheduled to start in December.

“We’re very judicious about reviewing homicide cases that may have death penalty considerations,” Kunzweiler said. “We have a death penalty review team. We take that very seriously and always have. In the cases we’ve filed, we did so because we believe the facts support that consideration.”

Proehl-Day, though, has pointed out all six defendants are black, a demographic that already faces disproportionate prosecution and sentencing. She has said before that she believes Kunzweiler’s requests for such consideration haven’t been done with appropriate care or with regard to realities of a shortage in resources both within his office and within the Public Defender’s Office, which is assigned to three of those cases.

Should he win re-election, Kunzweiler said a major focus area he has is improving on services provided by the juvenile justice system, which he said gives the chance to intervene early enough to address mental illness, stop domestic violence and treat substance abuse. He also said he wants to work to reduce staff turnover.

More than 30 people, including Proehl-Day, have departed the office since Kunzweiler’s 2015 swearing-in. Kunzweiler said several of those people have pursued other opportunities in rural jurisdictions or with places like the U.S. Attorney’s Office or the Oklahoma Attorney General’s Office.

"It's frustrating that other jurisdictions have the financial capacity to take the people that I train and pay them significantly more money than my budget will allow," he said.

However, Proehl-Day, who has spoken publicly about Kunzweiler terminating her in 2015, said the volatility is a result of lack of leadership and poor management. Kunzweiler has generally declined to comment on the situation, saying it is an internal personnel matter, but Proehl-Day has said she was wrongly blamed for disseminating allegations about a coworker's personal life.

"Tim Harris dealt with the same budget failures and he did not have the turnover rate that you see with this administration," she said of staffing problems. "At some point in time, when you have over 30 prosecutors leave in four years, you need to look at yourself and realize you're not doing something right. And that failure lies clearly on his shoulders."

Samantha Vicent

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## Challenger alleges 'problematic' behavior by incumbent in criminal case

Democratic nominee Jenny Proehl-Day has spoken out against what she called "problematic" behavior by incumbent Steve Kunzweiler during jury selection for a 2017 robbery case he took to trial.

A seven-page excerpt of a transcript obtained by the Tulsa World indicates the juror, a woman, told District Judge Kelly Greenough she was "probably racist" because "I hate that our cops are getting killed." The defendant in the trial, Howard Jones, is black.

The excerpt first appeared online in a broadcast hosted by local social justice activist group We The People Oklahoma.

Proehl-Day alleged the transcript, which she showed during an event in north Tulsa, shows Kunzweiler did not immediately ask Greenough to strike the woman and instead tried to rehabilitate her. The transcript notes Kunzweiler told Greenough he understood the court's reservations about keeping the woman in the pool.

"But at the same time she answered every time that she will try and do — try and follow the instructions. She never once said she can't do it," he said, to which Jones' attorney, Brian Boenheim, asserted the woman clearly said she has a bias against his client, whom she said she's more likely to believe was guilty.

Greenough ultimately excused the woman without anyone objecting. Jones was later convicted and sentenced to 40 years in prison.

Asked about the matter, Boenheim said he was "shocked" during the interaction with Kunzweiler and believed her words should have been cause for the state to instantly ask for her dismissal.

In a statement earlier this month, Kunzweiler called it "unfortunate and insulting" for Proehl-Day to use the transcript during her campaign to suggest he acted improperly. He said the transcript shows he only asked foundational questions to make the case record clear and pointed to his prosecutions of Robert Bates, Shannon Kepler and Betty Shelby, as well as the suspects in the Good Friday killings, as proof of his commitment to justice.

Proehl-Day in response said the transcript shows Kunzweiler didn't uphold his oath to ensure a fair jury free from bias, sympathy or prejudice.

"But for the actions of the judge, that juror would have returned to her seat and the defense would have had to use one of their strikes to remove someone they knew was improper to sit on that jury panel," she said.

# Exhibit C

SEP 11 2017

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY  
STATE OF OKLAHOMA

DON NEWBERRY, Court Clerk  
STATE OF OKLA. TULSA COUNTY

THE STATE OF OKLAHOMA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 GREGORY JEROME EPPERSON, )  
 )  
 Defendant. )




Case No. CF-2017-2056

**BILL OF PARTICULARS**

COMES NOW, the State of Oklahoma, by and through its duly elected and acting District Attorney, Stephen Kunzweiler, and hereby gives notice to this Court and to the Defendant that the offense of Murder- First Degree as charged in the original information was committed by the Defendant, and said Defendant should be punished by Death due to and as a result of the following aggravating circumstances, to wit:

1. The murder of the victim, Kelsey Tennant, was especially heinous, atrocious and cruel. 21 O.S. § 701.12 (4)
2. There exists the probability that the Defendant would commit criminal acts of violence that would constitute a continuing threat to society. 21 O.S. § 701.12 (7)

Respectfully submitted,

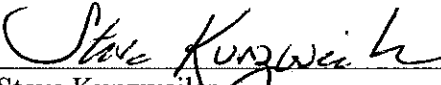
  
Steve Kunzweiler  
District Attorney  
500 South Denver Ave., Suite 900  
Tulsa, OK 74103

**CERTIFICATE OF MAILING/DELIVERY**

This is to certify that on the date of filing, a true and correct copy of the foregoing was mailed/faxed/hand delivered to:

Sheena Burgess  
Attorney for Defendant  
Smiling,Smiling & Burgess  
Bradford Place Suite 300  
9175 South Yale Avenue  
Tulsa, OK 74137  
UNITED STATES  
(918)477-7500  
(918)477-7510  
[sburgess@smilinglaw.com](mailto:sburgess@smilinglaw.com)

Beverly Atteberry  
Attorney for Defendant  
PO Box 420  
Tulsa, OK 74101-0420  
UNITED STATES  
(918)605-1913  
(918)744-6300  
[beverlyatteberry@aol.com](mailto:beverlyatteberry@aol.com)

  
Steve Kunzweiler  
District Attorney  
500 South Denver Ave., Suite 900  
Tulsa, OK 74103



# Exhibit D



IN THE DISTRICT IN AND FOR TULSA COUNTY  
STATE OF OKLAHOMA

THE STATE OF OKLAHOMA, )  
)  
Plaintiff, )  
)  
vs. )  
)  
DAVID ANTHONY WARE, )  
MATTHEW HALL. )  
Defendant. )

Case No. CF-2020-2889

DISTRICT COURT  
**FILED**

JUL 14 2020

ORDER APPOINTING CONFLICT DEFENDER

NOW on this 14 day of July, 2020 the Court finds that a conflict of interest exists, DON NEWBERRY, Court Clerk  
STATE OF OKLA. TULSA COUNTY

wherein the office of the Public Defender is unable to represent the above named defendant,  
David Anthony Ware.

IT IS THEREFORE ORDERED that Kevin Adams be appointed as Counsel to  
represent the Defendant, David Anthony Ware, in the above styled and numbered case.

Dated this 14 day of July, 2020.

  
\_\_\_\_\_  
JUDGE OF THE DISTRICT COURT

Prepared by:  
Kevin D. Adams, OBA#18914  
36 East Cameron Street, #16  
Tulsa, OK 74103  
O 918 582 1313  
kadams@lawyer.com



**Bill LaFortune**

1d · 🌐

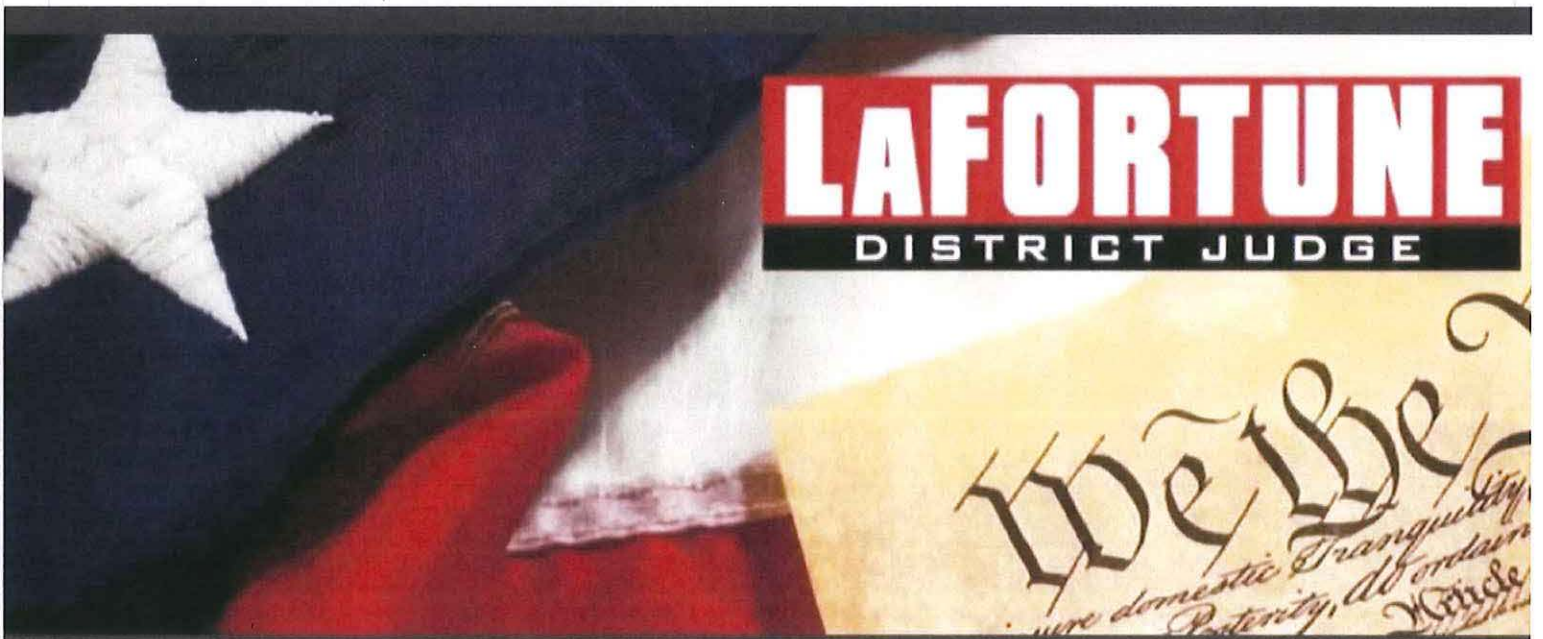


**Judge Bill LaFortune**

2d · 🌐

[Judge Bill LaFortune](#) has officially formed his campaign committee and is seeking re-election in 2022!

Stay tuned to our Facebook page as we begin to update it! Judge Lafortune has been very busy attending numerous events within our community. Recently a case he presided over was even featured on the A&E Show After the First 48! The Committee is thrilled to interact through social media to show the dedication of Judge Lafortune to Tulsa County!



Greg Lavender and 60 others

3 Comments 2 Shares

Like

Comment

Share

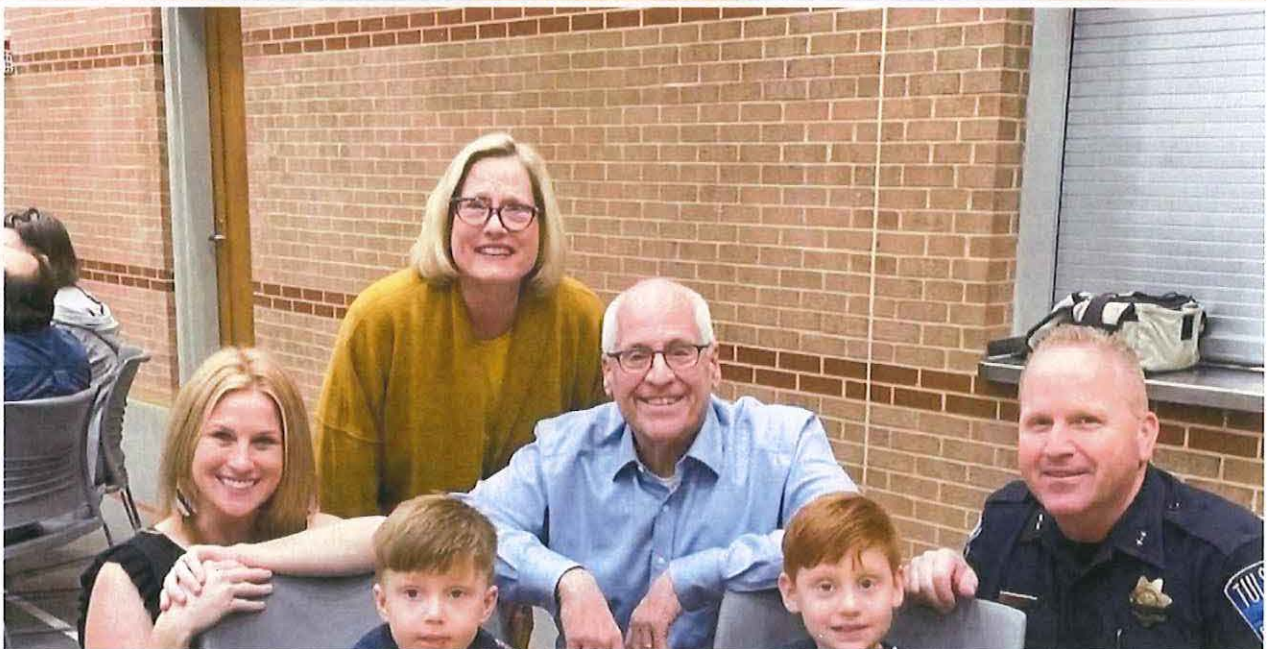
Like Share



**Bill LaFortune**

Nov 9, 2021 · 🌐

Look who Kathy and I ran into at the Tulsa Metropolitan Ministry annual dinner for the Tulsa Police Academy's current class and a welcome dinner for some of Tulsa's Afghan refugees-Chief Franklin and Deputy Chief and Jordan Dalglish with their boys in tow!!

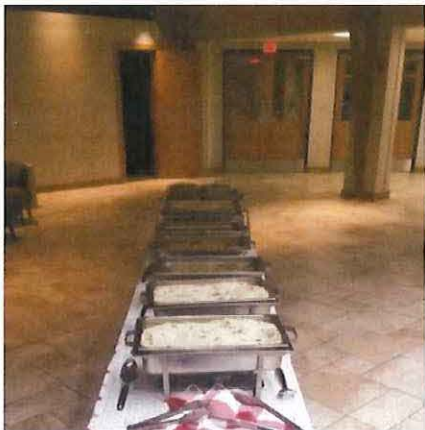




### Tulsa Metropolitan Ministry

Nov 9, 2021 · 🌐

A great New Neighbors Dinner tonight, celebrating our newest cadet class from the academy of the [Tulsa Police Department](#), and welcoming many of our new Afghan neighbors... See More



33

5 Comments 2 Shares

Like

Share



Aliye Shimi is with John Waldron and 20 others.

Nov 9, 2021 · 🌐

Huge thank you to Harvard Ave X  
TMM's New Neighbor/ TPD grac

People



Tulsa Metropolitan Min

Nov 9, 2021 · 🌐

A great New Neighbors Dinner  
cadet class from the academy  
and welcoming many of our ne



Gary Peluso-Verdend



Jean M. Neal

2 mutual friends

Add Friend



Bill LaFortune

Request sent

Undo



Evan Taylor

2 mutual friends

Add Friend



Kevin Harper

1 mutual friend

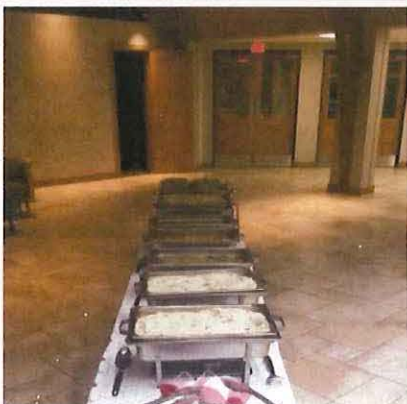
Add Friend



Michelle Thomas

8 mutual friends

Add Friend





Brenda Tiemann is with Joy Pittman Thorp and 68 others.



Dec 6, 2021 · 👥

Please know this is still open and all Republicans are welcome!  
You do NOT have to have a ticket or RSVP!

Come and join us at our joint Christmas party with the Republican Women's Club of Tulsa County, Tulsa Area Republican Assembly, Republican Men's Club of Tulsa County, 9.12 Club and the Republican Party of Tulsa County. No RSVP is required. Free to all and you do not have to be a member to come. You are encouraged to bring someone with you!



Republican Party of Tulsa County updated the event cover photo in Tulsa GOP Christmas Party.

Nov 21, 2021 · 🌐

**TARA**  
TULSA AREA  
REPUBLICAN ASSEMBLY

REPUBLICAN WOMEN'S CLUB  
OF OKLAHOMA  
OF TULSA COUNTY

TULSA COUNTY  
GOP

Tulsa County  
New Republican  
Club

TULSA  
9.12  
PROJECT

YOU'RE INVITED!

# TULSA GOP CHRISTMAS PARTY

TUESDAY, DECEMBER 7TH

Time: 6:30pm - 9:00pm

Stokely Event Center | 10111 E 45th Pl, Tulsa, OK 74146

RSVP: [tulsagopchristmasparty21.eventbrite.com](https://tulsagopchristmasparty21.eventbrite.com)

Leah Phillips Kirkendoll and 17 others

1 Comment 1 Share