

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

THE PEOPLE OF THE STATE OF MICHIGAN,

v

Case No. 19-272593-FC

NICHOLAS REMINGTON,

Defendant./

MOTION HEARING

BEFORE THE HONORABLE JAMES M. ALEXANDER, CIRCUIT JUDGE

Pontiac, Michigan - Friday, December 4, 2020

APPEARANCES:

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WITNESSES

None

EXHIBITS

None offered.

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Pontiac, Michigan

Friday, December 4, 2020 - 11:07 a.m.

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(Proceeding conducted via Zoom videoconference.)

THE CLERK: Calling People versus Nicholas Remington, case number 2019-272593-FH. And, this video may be made public.

THE COURT: Appearances please.

MS. HAND: Good morning, Your Honor. Beth Hand appearing on behalf of the People.

MR. ROCKIND: Neil Rockind, P number 48618. I'm counsel for Nicholas Remington.

In my office with me at the moment is also Randall Lewis who's co-counsel, Your Honor.

THE COURT: Okay. I was prepping for this hearing this morning and it struck me that Judge Valentine's going to be hearing this case. So, I don't think I should be making any -- any preliminary decisions at this point. What do you guys think?

MR. ROCKIND: I agree with that decision, Judge, although I certainly respect you as a judge and a person. I think that whoever's going to be the trial judge should be making rulings about the admissibly of evidence at a trial.

THE COURT: Ms. Hand?

1 MS. HAND: Well, Your Honor, I disagree. These  
2 are legal decisions that this Court is capable of making.  
3 The motion to quash has nothing to do with the  
4 admissibility of evidence in the case. The motion to  
5 suppress don't have -- I mean eventually it could have  
6 but it's not -- it's not a ruling on, you know, how the  
7 proofs are going to proceed.

8 The motion to disqualify the Oakland County  
9 Prosecutor's Office and myself certainly has nothing to do  
10 with the actual trial in the case. So, I think the Court  
11 is well-equipped based on all the information provided to  
12 make the decisions in this case.

13 THE COURT: Oh, I'm well -- I'm well equipped to  
14 make the decision, Ms. Hand, I just don't know that I want  
15 another judge to be stuck with my decisions. I've been in  
16 that situation and I didn't like it quite honestly.

17 MR. ROCKIND: And, I appreciate that and I don't  
18 think it's a function of whether you're well equipped to  
19 make the decisions. I think it's -- the first point that  
20 I was going to make and I appreciate the Court being --  
21 being prescient was that you're -- there's going to be a  
22 judge who's going to have to preside over this trial and  
23 these evidentiary issues are issues that -- just like you  
24 would want to make those decisions for yourself, that was  
25 the first thing I was going to bring up when I had the

1 opportunity but there are greater minds than me and I  
2 appreciate the Court bringing it up before I -- before I  
3 did. And, I think that was your -- during our last status  
4 conference, that was something that you had alluded to and  
5 I think your initial gut reaction was correction and I  
6 think you're -- you're observation this morning is correct  
7 and I think we all agree with it.

8 MS. HAND: Well, Your Honor, we don't --

9 THE COURT: Well, we all don't agree 'cause Ms.  
10 Hand --

11 MR. ROCKIND: Well, I don't mean we all agree  
12 with it but I mean that the defense agrees with it, I  
13 think Mr. Remington agrees with it, I think that my -- Mr.  
14 Lewis agrees with it, and I guess I'm not trying to weigh  
15 who (indiscernible) more but I think that that's the best  
16 course of action.

17 MS. HAND: Well, Your Honor, the only thing I  
18 would bring up is if this Court had ruled upon the motions  
19 in March when they were first filed, we did -- and I did  
20 agree to adjourn it several times at the defendant's  
21 request to try to accommodate his desire for an in-person  
22 although it's not his legal right to have it in-person,  
23 but had the Court ruled upon them in March we still would  
24 not have had this matter tried by the end of this year and  
25 the successor judge would still be bound by the decisions

1 you made whether or not they were made in March when the  
2 motions were originally brought, or whether they're made  
3 today. And, so there's no -- there's no difference --

4 THE COURT: Yeah, there's a huge difference Ms.  
5 Hand. In March we didn't know how long this was going to  
6 last. In March we would have thought -- if I had -- if we  
7 had made those decisions that this case would be over and  
8 in March it may have been a situation where decisions  
9 would have led to a resolution. So, I think there's a  
10 major difference. I'm not comfortable in making a  
11 decision that's going to bind Judge Valentine. This is my  
12 fault because I set this date and I shouldn't have. I  
13 should have set this -- but honestly when I set this I did  
14 not know who was going to be my successor. Judge Kumar  
15 has just made that decision this week.

16 So, I think that in the interests of justice, I  
17 will tell you this. I am prepared to rule -- I'm not  
18 prepared to rule on the suppression and the evidence  
19 issues. I am prepared to rule on the motion to disqualify  
20 the Prosecutor's Office. That's not an evidentiary issue.  
21 I think that is something that I can hear this morning and  
22 I'll -- so the motions to suppress, exclude, to quash the  
23 bind over, and the prosecutor's motion to admit other acts  
24 evidence, I'm going to punt that to Judge Valentine. You  
25 should get a date from her clerks to argue this motion.

1                   And, again, I think my prior ruling stands  
2 unless somebody's going to file a motion before her to  
3 reconsider it relative to the live hearing.

4                   Let's argue the motion to disqualify the  
5 Prosecutor's Office.

6                   MR. ROCKIND: Thank you. So, Judge, I'm going to  
7 temper that motion a little bit. I -- again, I don't know  
8 -- the focus of the motion is really, with all due respect  
9 to Ms. Hand, we've had many battles back and forth. I've  
10 always thought that I had a collegial, well not always,  
11 but mostly have had a collegial relationship with Ms.  
12 Hand. She's been a tough opponent and a tough advocate  
13 and I've said that to her -- to her face, so I'm not  
14 saying anything that I -- is false flattery. But, the  
15 fact of the matter is I'm not -- given the fact that I --  
16 I don't know what Ms. Hand's participation in the next  
17 Prosecutor's Office will be, I don't know if she'll be the  
18 one -- she'll be in the office or not. If she's not in  
19 the office then I think that may change the dynamics a bit  
20 because I'm not going to seek it if she's not in the  
21 office, if she would just be a citizen then I would quite  
22 honestly be seeking to call her as a witness in the case  
23 as opposed to moving to disqualify the Prosecutor's  
24 Office.

25                   The reason why I believe that Ms. Hand is a

1 witness in this case, and there's a rather lengthy record  
2 that's made, and I hope the Court will just kind of work  
3 through it. The first is the issue that we raised in our  
4 -- in our pleading and it occurred at the preliminary  
5 examination. If I'm not looking at the cameras 'cause I  
6 want to -- I'm looking at the notes, it's an important  
7 issue and I want to make sure that I get it correctly.  
8 So, please don't think that I'm ignoring the face-to-face  
9 contact or communication that would ordinarily be the  
10 case.

11 The history is that there was an interview that  
12 Ms. Hand conducted with Paul Weidemeyer (ph) who was a  
13 live witness or a witness and was listed on the  
14 prosecutor's witness list. There are -- that interview,  
15 from what I can tell and I believe the preliminary  
16 examination testimony on pages 113 and 119, 113 to 119,  
17 actually revealed that that interview contained and  
18 revealed exculpatory evidence. Exculpatory evidence  
19 included evidence that Mr. Weidemeyer, who was a listed  
20 witness and a res gestae witness, that he had changed his  
21 story. Ms. Hand had, on information and belief, she had -  
22 - she, not Detective Balog (ph), but she had made  
23 statements that were bias. That she had actually argued --  
24 that she had told Mr. Weidemeyer that he's given four  
25 different stories, that he's changed his story four times.



1                    Giglio versus United States, which was 405 US  
2                    150, 1972 case, extends the scope of Brady to include  
3                    relevant impeachment evidence. Impeachment evidence falls  
4                    within the Brady rule. There were no records of that  
5                    interview, no notes of that interview, no recordings of  
6                    the interview. We didn't even know the interview had  
7                    taken place until we had actually had the opportunity to  
8                    interview Mr. Weidemeyer. And, the only person that can  
9                    arguably corroborate what Mr. Weidemeyer says would be Ms.  
10                    Hand because if we ask Mr. Balog what did Ms. Hand say we  
11                    get an objection which is what Ms. Hand made at the  
12                    preliminary examination which was that it was hearsay.

13                    But, it goes further than that. We didn't even  
14                    -- there wasn't even a mention, we wouldn't have -- we  
15                    hadn't even interviewed Mr. Weidemeyer or even stumbled  
16                    upon this or asked about it during a preliminary  
17                    examination, there would be no record that one of the  
18                    witnesses, a potential eyewitness whose house this was  
19                    where this even occurred had told or change their story  
20                    four different times and been accused of changing his  
21                    story four different times.

22                    The second reason that Ms. -- so that makes Ms.  
23                    Hand a witness. She's the one who made the statement, not  
24                    Detective Balog.

25                    The second issue is that there was a -- I don't

1 know if the Court's aware but there was a phone dump in  
2 this case. So, Venice Prika (ph) is the -- is the  
3 deceased, his phone was actually seized. There's a report  
4 that I could put up here if you wanted to see it. It is a  
5 completely misleading police report that does not reveal  
6 at all that the police had seized his phone, had done an  
7 extraction of his phone, and that the phone itself had  
8 contained -- that -- and when we discovered that, we just  
9 happened to ask the Detective about it during the  
10 preliminary examination. We asked about it and the  
11 Detective himself he said that oh there was an extraction  
12 which there -- that's a police report, it had not been  
13 disclosed. Ms. Hand originally attempted to deny that we  
14 were entitled to receive that -- that report or originally  
15 attempted to deny on the record and that's page 120 to  
16 125. She had originally attempted to deny that that was  
17 discoverable or that it was discovery. The Judge  
18 ultimately ruled that it was because it should be and  
19 we've since seen that and that contained exculpatory  
20 evidence. It absolutely contains exculpatory evidence. I  
21 have the text messages that Mr. Prika (ph) sent to this  
22 girlfriend which are currently --

23 THE COURT: What's that got to do with -- what's  
24 that got to do with DQing the Prosecutor's Office?

25 MR. ROCKIND: So, no longer seeking -- Ms. Hand

1 is not -- my motion is to disqualify Ms. Hand. So, that  
2 is my motion to disqualify her as the trial prosecutor in  
3 this case. Our position is that Ms. Hand cannot -- and  
4 there's a -- there's a second issue. The second issue is  
5 that Ms. Hand actually interviewed Ms. Weidemeyer a second  
6 time. And, Mr. Weidemeyer in that second interview which  
7 has not been made part of a report, has not been  
8 documented, has not been produced, there's no record of  
9 it, we just happened to -- we discovered it. This witness  
10 actually told Ms. Hand, and I have -- we actually have  
11 notes of what the witness claims he told Ms. Hand telling  
12 her that he did not see Mr. Remington transfer any drugs,  
13 to give any drugs, deliver any drugs, that he didn't give  
14 any drugs to Mr. Prika. Those are statements made to her  
15 and then she confronted him and actually made statements  
16 in response to that. And, her statements in response to  
17 that reveal bias.

18 The interview occurred at a fast food  
19 restaurant. It occurred in March of 2020. There's  
20 another person who was present, we don't know who that  
21 was. The disclosures are favorable to our client that Ms.  
22 Hand actually -- from what -- the information that I have  
23 actually made statements to the witness at that point  
24 about how he couldn't pled the Fifth, why would he allow  
25 this to happen, why would he allow the -- Mr. Remington to

1 "get away with it", and when -- when the witness pointed  
2 out that the complainant's, the deceased's mother had  
3 actually threatened him, and there's a 45 minute phone  
4 call where she threatened him on the phone which would in  
5 any other context, if it were the defendant's mother she  
6 would be accused of obstruction of justice or witness  
7 tampering, we did receive that disk, she's not charged  
8 with any crime. And, on top of that, when the witness  
9 brought that up to Ms. Hand, Ms. Hand's response was well  
10 how would feel if this were your child. And, so that  
11 makes her a witness.

12 The cases that Ms. Hand cited, she cited three  
13 cases. She cited the Brandon (ph) case, the Petri (ph)  
14 case, and the Westward (ph) case. As far as I understand  
15 those are unpublished cases. The Brandon case -- two of  
16 the cases deal with witnesses who have been -- the  
17 prosecutors have crossed the line into actually  
18 investigating a case or witnesses who just heard what  
19 another witness may have said. Ms. Hand crossed a line in  
20 this case because she's actually the one who is making the  
21 statements to Mr. Weidemeyer. She's the one who's talking  
22 to him and only she can say that she did or did not do  
23 those things. That makes her a witness. And, so the  
24 three cases that she cited are inapposite. They're  
25 unpublished, they deal with a prosecutor preparing for a

1 trial by interviewing witnesses, and more importantly they  
2 deal with whether the prosecutor's crossed over -- crossed  
3 the line into investigating a -- from a prosecutor into an  
4 investigator.

5 THE COURT: How does -- how do her actions  
6 prevent you from presenting a substantial -- a substantial  
7 defense?

8 MR. ROCKIND: So, if Mr. Weidemeyer -- first of  
9 all we don't -- I think that's a fair question, Judge.

10 THE COURT: Thank you.

11 MR. ROCKIND: Our defense -- our defense in the  
12 case is that Mr. Remington didn't do it, there's no  
13 evidence that Mr. Remington did it. And, for a prosecutor  
14 to accuse a witness who is changing his -- to one to fail  
15 to disclose, which she has an obligation to do under Brady  
16 that the witness has made inconsistent statements, and  
17 more importantly that she's accused a witness of making  
18 inconsistent statements, that deprives us of -- that one  
19 deprives us of that information. We got it on our own but  
20 that's not a defense to a prosecutor that crosses the line  
21 and expresses bias against the accused. She literally --

22 THE COURT: Your -- your -- your position is  
23 based on the statements that Weidemeyer made to you?

24 MR. ROCKIND: Our statement -- yes. And -- yes.  
25 And, so I have -- I have a couple different options. That

1 one -- I believe all of that evidence should have been  
2 disclosed pursuant to Brady. Every interview where the  
3 witness made inconsistent statements, contradicted  
4 himself, or more importantly made statements to Ms. Hand  
5 that Mr. Remington didn't deliver drugs, didn't give any  
6 drugs to Mr. Prika, and that he has no idea what Mr. Prika  
7 took; that's exculpatory. That was never disclosed to  
8 the People -- or to the defense ever. We happened to --  
9 we happened to -- to obtain that information but that's  
10 not the way this works. The prosecutor has to produce  
11 that.

12 And, the second is it's not just her on the  
13 receiving --

14 THE COURT: And, the remedy though in that  
15 situation is to exclude the evidence and/or suppress as  
16 opposed to DQing the prosecutor's office, isn't it?

17 MR. ROCKIND: In this case the -- I would -- I  
18 would add a third remedy. The third remedy, which is the  
19 easiest is that Ms. Hand who -- remember bias is always  
20 relevant. We're always allowed in a case to -- to make an  
21 argument that a witness or that an investigation is  
22 biased. And, evidence that shows bias or prejudice on the  
23 part of a witness is always relevant. That's Powell  
24 versus Saint John Hospital, 241 Mich App 64, a 2000 case.  
25 Testimony which touches the bias or interest of the

1 witness is always admissible.

2 And, would say in this case Ms. Hand has stepped  
3 over the line from being -- remember prosecutors are both  
4 advocates and ministers of justice and her actually -- her  
5 actually accusing the witness of conflicting statements,  
6 her actually interviewing the witness a second time and  
7 then -- and trying to get the witness -- and I would say  
8 the witness's testimony would be that Ms. Hand pressured  
9 him. That's evidence of bias. That's evidence that we  
10 have a right to show that the prosecutor actually was so  
11 determined to get Nick Remington that she attempted to  
12 pressure a witness into changing his exculpatory statement  
13 that Nick didn't do anything wrong and didn't commit a  
14 crime to -- to -- to say -- to implicate him and try to  
15 use different pressuring tactics to do that. That's the  
16 remedy is that forget about -- about disqualifying the  
17 prosecutor's office, our first issue, again I'm removing  
18 that from the table if Ms. Hand is no longer involved in  
19 the office. My issue is is that she is a witness.

20 THE COURT: Okay.

21 MR. ROCKIND: I mean any witness that put  
22 pressure on a -- anybody that puts pressure on a witness  
23 to say one thing or the other has -- is arguably -- has  
24 potentially committed a crime, but put that aside has  
25 actually -- is -- is a witness. And, particularly in this

1 case where it's the prosecutor we would have the right to  
2 point out that this case has become so singularly focused  
3 with such a lack of evidence in the case, which you want  
4 to know what our substantial defense is, so singularly  
5 focused with such an absence of evidence that when the  
6 eyewitness who was there tells Ms. Hand that he didn't see  
7 anything, that Nick Remington didn't do anything wrong,  
8 that rather than accept that answer and turn it over,  
9 instead what Ms. Hand did was attempt to pressure him to  
10 change his story. That's --

11 THE COURT: Let me hear from Ms. Hand. I  
12 understand your argument. Ms. Hand?

13 MR. ROCKIND: Thanks.

14 MS. HAND: Judge, first of all so Mr. Rockind  
15 should also be taken off the case because he clearly has  
16 interviewed Mr. Weidemeyer on two occasions. The -- the  
17 standard is whether or not the prosecutor injected herself  
18 into the investigation. Clearly that did not happen.  
19 And, it was woefully, woefully, missing from Mr. Rockind's  
20 pleadings in this matter that the interview with Mr.  
21 Weidemeyer took place very close in time to the  
22 preliminary examination in this case. I sat down with Mr.  
23 Weidemeyer as any decent prosecutor would do, as any  
24 decent defense attorney would do, in order to find out  
25 what the witness is going to say.



1                   So, I sat down with him, I had Detective Balog  
2                   (ph) present with me and went over the statement that he  
3                   had given Detective Balog and asked him about what his  
4                   testimony was going to be and whether it was going to be  
5                   consistent with the statement that he gave to Detective  
6                   Balog. That's what I did.

7                   And, I had a second meeting with him, that's  
8                   true, and obviously Mr. Rockind knows why because Mr.  
9                   Rockind has had a second meeting with Mr. Weidemeyer. So,  
10                  Mr. Rockind again has an interview with Mr. Weidemeyer.

11                  THE COURT: Yeah, but Mr. Rockind doesn't have a  
12                  -- have a requirement to turn stuff over to you, but  
13                  you've got a requirement to turn stuff over to him. And,  
14                  you --

15                  MS. HAND: I --

16                  THE COURT: -- the second interview?

17                  MS. HAND: Pardon me?

18                  THE COURT: He didn't -- you didn't give him any  
19                  of the information from the second interview?

20                  MS. HAND: The second interview after the  
21                  preliminary examination? No, Your Honor, not yet, but we  
22                  haven't gone to Court again. I don't have a requirement  
23                  to --

24                  THE COURT: Don't you have a requirement to give  
25                  him -- haven't I ordered that discovery be turned over?

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MS. HAND: It's not discovery if I'm interviewing  
-- that's work product, Judge. If I'm sitting down with a  
witness, prepping them for a case, that is my work  
product, that is not -- that's not an interview relative  
to the investigation in the case.

6  
7

THE COURT: Wait, wait, wait. Wait a minute,  
wait a minute, wait a minute.

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11

MS. HAND: Every time I meet with a witness  
before an exam or a trial I don't call the defense  
attorney and say hey I've met with this witness in order  
to find out what they're going to testify to.

12  
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THE COURT: Well, were you meeting with  
Weidemeyer to go over his testimony or meeting with him to  
investigate the case?

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16

MS. HAND: I was meeting with him to see what his  
testimony would be.

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THE COURT: Did you at some point confront him  
with a different statement?

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MS. HAND: I confronted him with the fact that he  
-- he -- on several occasions he would -- he indicated  
that he had given -- that the defendant had given the  
drugs to the decedent, that's what he had told Detective  
Balog. And, when I asked him whether or not he -- how it  
was packaged, he changed how it was -- how it was  
packaged. And, then he started to say well he didn't see

1 him give it to him. But, I didn't call him as a witness,  
2 Judge. He's on -- he's -- he could be the defense witness  
3 in this case. I didn't call him as a witness for that  
4 reason.

5 MR. ROCKIND: Judge, I'm not even following that.  
6 So, it sounds like the witness went from saying that Mr.  
7 Remington did something to saying that he didn't do  
8 anything and there was no disclosure of any of that.  
9 That's in the first meeting. And, the second meeting was  
10 they hadn't called Mr. Weidemeyer at the preliminary  
11 examination, she had a second meeting with Mr. Weidemeyer.  
12 Nobody advised us or apprised us that that meeting had  
13 taken place, and it's my understanding that there was even  
14 more that was said when Mr. Weidemeyer was even told that  
15 if he was lying he could go to prison. He actually  
16 indicated he wanted to -- he wanted to plead the Fifth, he  
17 was advised that he couldn't plead the Fifth. He  
18 specifically and repeatedly denied -- he said the truth is  
19 I didn't see him give drugs to Mr. Prika or Mr. Prika take  
20 drugs. None of that -- that's exculpatory, that's not  
21 protected by work product. That's exculpatory evidence  
22 that has not been disclosed.

23 And, I am aware of the concern that Ms. Hand --  
24 that she might try to -- to say that somehow I -- I had  
25 witnesses to the conversations that I had with Mr.

1 Weidemeyer and I had recordings with the -- of the  
2 conversations.

3 MS. HAND: As -- as did I. I have witnesses --

4 MR. ROCKIND: If you have recording's I'd love to  
5 hear 'em.

6 MS. HAND: I don't have recordings, I had  
7 witnesses present with me for that very reason.

8 MR. ROCKIND: And, we don't -- you've never  
9 disclosed who the second witness was --

10 THE COURT: Wait a minute, wait a minute. So how  
11 does Ms. Hand become a witness? Mr. Weidemeyer's going to  
12 get on the stand and he's going to say either I saw him  
13 give the drugs or I didn't see him give the drugs. And,  
14 if (indiscernible) contemporaneous statement that he signs  
15 saying he did see them give the drugs at some point?

16 MR. ROCKIND: There's no statement that he signed  
17 saying that -- there's no statement that Mr. Weidemeyer  
18 signed saying that he gave him the drugs. And, that's  
19 just a burden to the defense to have to call Mr.  
20 Weidemeyer. If Mr. Weidemeyer denied --

21 THE COURT: Is he --

22 MR. ROCKING: -- it absolves Ms. Hand of what I  
23 believe are her obligations. She's the one that made  
24 affirmative statements to Mr. Weidemeyer and I think Mr.  
25 Weidemeyer would testify that Ms. Hand put pressure on Mr.

1 Weidemeyer. That's her witness. They're on her witness  
2 list.

3 MS. HAND: It's a witness. It's a res gestae  
4 witness. It's only my witness if I call the individual to  
5 the stand. And, if I call Mr. Weidemeyer to the stand and  
6 said -- and he states for some miraculous reason yes I saw  
7 Mr. Remington give him the drugs and that -- he decides  
8 that's going to be his testimony for the day, then Mr.  
9 Rockind can certain impeach him with the fact that didn't  
10 he tell me on other occasions that he didn't give him the  
11 drugs.

12 MR. ROCKIND: Who are my -- let's play that out.  
13 Who are -- who are my impeachment witnesses? One would be  
14 Mr. Balog and the second would be Ms. Hand. Mr. Balog has  
15 -- has already -- there was an objection to hearsay when I  
16 asked Mr. Balog what Ms. Hand said and that would lead Ms.  
17 Hand as to -- as the only person that could refute what  
18 Mr. Weidemeyer said in that meeting. That makes her the  
19 witness.

20 MS. HAND: It doesn't make me the witness.

21 MR. ROCKIND: You're the witness that heard the  
22 inconsistent statements.

23 THE COURT: All right.

24 MS. HAND: I was not alone during the interviews.  
25 There are officers present during the interviews or

1 another investigator present during the interview that can  
2 testify to what was said during the interview.

3 MR. ROCKIND: And, Mr. Balog -- I can pull the  
4 transcript out, I can pull it up here if the Court wants  
5 to see it, but at one point when I asked did Ms. Hand  
6 confront --

7 MS. HAND: So, I objected. Maybe the next judge  
8 won't sustain the objection. It is hearsay.

9 MR. ROCKIND: You objected to your own statement  
10 -- Your Honor, she objected to her own statement as  
11 hearsay.

12 THE COURT: All right, calm down everybody. Calm  
13 down.

14 I mean I think Ms. Hand was doing -- was doing  
15 an -- was doing her job as a prosecutor, she was talking  
16 to a witness who was going to testify at trial. She  
17 decided not to call him for whatever reason. She thought  
18 that his testimony was going to be -- you know maybe she  
19 should have given you some information, Mr. Rockind, but  
20 at this point I'm not about to disqualify the prosecutor  
21 or the Prosecutor's Office.

22 MS. HAND: Thank you, Judge.

23 MR. ROCKIND: Thank you, Your Honor.

24 THE COURT: I'm going to deny --

25 MS. HAND: Your Honor --

1                   THE COURT: -- deny the motion. I think -- I  
2 think you can still present a substantial defense, at  
3 least as I read the cases, that's what's required. You  
4 are presenting substantial defense. So, she's not DQed.

5                   MR. ROCKIND: Thank you, Your Honor.

6                   MS. HAND: Thank you, Judge.

7                   That being said, Your Honor, is there any  
8 possibility that the Court could see if Judge Valentine  
9 could hear these motions next week sometime?

10                  THE COURT: (Indiscernible)

11                  MS. HAND: Ms. Collins is -- sorry.

12                  THE COURT: I don't know. I mean you can ask her  
13 if she wants to. I'm not sure that, you know, she doesn't  
14 have a lot of -- well I don't want to say anything else.  
15 I don't know. I mean she doesn't take -- my -- my -- I'm  
16 done December -- or January first at noon. So, until then  
17 she really doesn't have my docket. You guys can meet with  
18 her and ask her, see if she'll set it up, but that's  
19 something that Mr. Rockind and Ms. Hand should do  
20 together.

21                  MR. ROCKIND: If we want to do that.

22                  THE COURT: If you want to do it. I'm not -- I'm  
23 not -- I'm not going to attempt to speak for either of the  
24 two judges who are taking my dockets.

25                  MR. ROCKIND: Thank you, Judge. I'll prepare an

1 order denying the motion. I appreciate that, Judge.

2 THE COURT: Okay. Anything else?

3 MR. ROCKIND: I don't know what your plans are  
4 for your retirement but I wish you the best --

5 THE COURT: Well, I didn't know it was public,  
6 it's public now. I'm joining JAMS with Jerry Rosen and  
7 Judge Potts.

8 MR. ROCKIND: Oh, wow.

9 THE COURT: We're going to be back together.

10 MR. ROCKIND: Congratulations. That's awesome.

11 MS. HAND: Congratulations, Judge.

12 THE COURT: Thank you.

13 MR. ROCKIND: Good for you. Hopefully -- I hope  
14 you're in good health, Your Honor, and I hope you get a  
15 chance to -- I had some football analogies ready to go  
16 'cause I know your son is football coach but I didn't get  
17 a chance to use them. So, you know, I don't know if  
18 they're playing or they're not playing. Are they playing?

19 THE COURT: Yeah, they -- they -- they played an  
20 entire season in Indiana. They were very few games that  
21 were called because of COVID. His team at one point was  
22 one and two and had given up 100 points in two games.  
23 Ended up nine and two and made the state quarter finals,  
24 so.

25 MR. ROCKIND: Excellent. Good for you. Thank



1           you very much, Your Honor. Take care.

2                   THE COURT: Thanks. Good luck everybody.

3                   MR. ROCKIND: We'll see you down the road.

4                   THE COURT: Yeah. You will. I'll be around.

5                   MS. HAND: Thank you, Judge.

6                   THE COURT: Thank you. Thank you for all --  
7 both, Ms. Collins, Ms. Hand, Mr. Rockind, it's been a  
8 pleasure having you in front of me. I'm going to miss you  
9 terribly.

10                   MS. COLLINS: We're going to miss you too, Judge.

11                   MS. HAND: We're going to miss you too, Judge.

12                   THE COURT: Okay. Have a good one everybody.

13                   (At 11:34 a.m., proceeding concluded.)

14                                   \* \* \* \* \*

