

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
COUNTY OF WINNEBAGO

| | | |
|-------------------------------------|---|----------------------------|
| THE PEOPLE OF THE STATE OF ILLINOIS |) | |
| |) | Judge: J. Edward Prochaska |
| Plaintiff, |) | |
| |) | Case Nos. 01-CF-2701 |
| vs. |) | 01-CM 8121 |
| |) | 02-CM-637 |
| Clarence L. Vance, |) | 02-CM-3066 |
| |) | 02-CM-6438 |
| Defendant, |) | |

**EMERGENCY MOTION REQUESTING THE CHIEF JUDGE HEAR THE
PETITION FOR SUBSTITUTION OF JUDGE PROCHASKA FOR CAUSE**

Now comes the above named as Defendant, Clarence L. Vance, and states to this Court as follows:

1. Said Defendant timely filed a MOTION FOR JUDGMENT ON THE PLEADINGS NOTWITHSTANDING THE VERDICT, on May 24, 2007, pertaining to Case No. 01-CF 2701.

2. Thereafter, said Defendant filed an AFFIDAVIT AND PETITION FOR SUBSTITUTION OF JUDGE AND PROSECUTOR FOR CAUSE AND FOR CHANGE OF VENUE on June 20, 2007, and filed an Amendment to said Petition on June 26, 2007, pursuant to 725 ILCS 5/114-5(d) which provides, in pertinent part, that:

*" . . . the State or any defendant may move **at any time** for substitution of judge for cause, supported by affidavit." (Emphasis added)*

3. Said Motion and said Petition, neither of which has been ruled upon, set forth previously noted conflicts of interest in which both Judge Prochaska and Prosecutor Charles Prorok accepted contributions to their respective judgeship campaigns from persons having a vested interest in the obtaining of a conviction of said Defendant and also set forth the previously noted conflict of interest between the statutory duty of Winnebago County State's Attorney Paul Logli, *"to seek justice, not merely to convict"* (RPC, Rule 3.8(a)), and his ongoing disregard of the affidavits and evidence in his possession concerning criminal behavior involving both persons having said vested interests and others, which evidence establishes that Paul Logli *"knows or reasonably should know that the charges are not supported by probable cause"* (RPC, Rule 3.8(b)) and that said evidence *"tends to negate the guilt of the accused"* (RPC, Rule 3.8(c)).

4. Said Petition was filed, in part, due to Judge Prochaska having previously demonstrated his

disregard of both the fact that his said noted conflict of interest does cause his impartiality to be reasonably questioned and the consequent requirement of Rule 3C of the Code of Judicial Conduct that he "*shall disqualify himself*".

5. Said 725 ILCS 5/114-5(d) statute requires that:

"Upon the filing of such motion a hearing shall be conducted as soon as possible after its filing by a judge not named in the motion; . . ." (Emphasis added)

6. Consequently, Judge Prochaska is barred, by said 725 ILCS 5/114-5(d), from hearing said Petition for Substitution due to the fact that he is the judge named therein.

7. Nevertheless, during the hearing conducted on June 27, 2007, Judge Prochaska demonstrated his disregard of said statutory requirement by refusing to refer said Petition to "*a judge not named in the motion*" for hearing and, thereafter, proceeded in his utter disregard of said previously filed Petition.

8. Furthermore, said Motion and said Petition establish that said Defendant did not, and can not, receive a fair and impartial trial in this Judicial Circuit on the subject charge(s).

THEREFORE, in consideration of the premises, said Defendant requests that the Chief Judge of this Court set a date certain and thereupon conduct a fair and impartial hearing of said Petition.

Dated: July 5, 2007

Respectfully submitted,

Clarence L. Vance
Named as Defendant

2203 Halsted Rd.
Rockford, IL 61103

AFFIDAVIT

Pursuant to 735 ILCS 1-109, the undersigned certifies that the statements set forth in the foregoing EMERGENCY MOTION are true and correct and that he will serve, either personally or by depositing in the U.S. Mail with postage prepaid, a true and correct copy of said MOTION upon each of the following:

Paul A. Logli
Winnebago County State's Attorney
400 West State Street
Rockford, IL 61101

Lisa Madigan
Illinois Attorney General
100 West Randolph Street
Chicago, IL 60601

Executed: July 5, 2007

Clarence L. Vance