

IN THE CIRCUIT COURT OF POPE COUNTY, ARKANSAS

STATE OF ARKANSAS

PLAINTIFF

VS.

CASE NO. 58CR-22-485  
58CR-21-495

CHRISTOPHER BEWLEY

DEFENDANT

MOTION FOR DISQUALIFICATION OF PROSECUTING ATTORNEY AND  
APPOINTMENT OF A SPECIAL PROSECUTING ATTORNEY

Comes the Defendant, Christopher Bewley, through his attorney, Patrick J. Benca, and for his Motion for Disqualification of Prosecuting Attorney and Appointment of a Special Prosecuting Attorney states:

1. Prosecuting Attorney Jeff Phillips has filed various charges against Bewley. Bewley and his family have been previously represented by Mr. Phillips in matters that would create a disqualification for him in his capacity as a prosecuting attorney which is adverse to Phillips and his deputies.

**I. Facts in Support of Motion**

2. The following facts are relevant to this motion:

a. In 2006, Mr. Phillips, while a general practitioner, represented Bewley's mother in a custody filing. During this time, Phillips was privy to documents relating to his counseling and medical records.

b. IN 2015 Mr. Bewley was physically attacked by his biological father, Shane Bewley. Mr. Phillips worked with Judge James Dunham in ex parte order of protection. This

matter also delved into custody and visitation matters. Again, Bewley's records were obtained by both Mr. Phillips and Judge Dunham.

The state Supreme Court has specifically prohibited---for both judges and lawyers---situations where there is an appearance of impropriety. *Berry v. Saline Memorial Hospital*, 322 Ark. 182, 907 S.W.2d 736 (1995) [Lawyer]; *First American Carriers, Inc. v. The Kroger Co.*, 302 Ark. 86, 787 S.W.2d 669 (1990) [Judge]; *Burnette v. Morgan*, 303 Ark. 150, 794 S.W.2d 145 (1990) [Judge]; *Patterson v. R.T.*, 301 Ark. 400, 784 S.W.2d 777 (1990) [Judge]; *Farley v. Jester*, 257 Ark. 686, 520 S.W.2d 200 (1975) [Judge]; *Bolden v. State*, 262 Ark. 718, 561 S.W.2d 281 (1978) [Judge]; *City of Jacksonville v. Venhaus*, 302 Ark. 204, 788 S.W.2d 478 (1990) [Judge]; *Burrows v. City of Forrest City*, 260 Ark. 712, 543 S.W.2d 488 (1976) [Judge]; *Gipson v. Brown*, 288 Ark. 422, 706 S.W.2d 369 (1986) [Lawyer]; *City of Little Rock v. Cash*, 277 Ark. 494 644 S.W.2d 229 (1982) [Lawyer].

## **II. Law In Support**

4. It is a clear conflict of interest for a prosecutor to prosecute a person who he has previously represented in some capacity. This is especially true under the circumstances where the prosecutor (and Judge Dunham) were privy to information that creates a conflict of interest and give a clear appearance of impropriety. It is for that reason that prosecuting attorneys customarily disqualify themselves from cases in those circumstances where they have represented the defendant in a previous matter.

5. Rule 1.10(a) of the Arkansas Rules of Professional Conduct requires that all members of the Prosecuting Attorney's office be disqualified. The Arkansas Supreme Court has held that violations of the Rules are relevant to disqualification issues. In *Norman v. Norman*, 334 Ark. 225, 651, 970 S.W.2d 270, 272-273 (1998).

**III. Conclusion**

6. Mr. Phillips had an obligation to put on the record his prior representation of Mr. Bewley and his mother and make the Court aware of the conflict of interest. Mr. Phillips has been exposed to intimate details of this families' life, including litigation that has made available records and information not usually available to a prosecutor, or a judge for that matter. It is for these reasons that a conflict exists and at a minimum an appearance of impropriety that disqualifies this prosecutor from Mr. Bewley's case.

WHEREFORE, defendant prays that the office of Prosecuting Attorney Jeff Phillips be disqualified and that a special prosecuting attorney be designated.

Respectfully submitted,

/s/Patrick J. Benca  
Patrick J. Benca  
Ark. Bar #99020  
Law Offices of Patrick J. Benca  
1311 S. Broadway  
Little Rock, AR 72202  
Phone: 501-353-0024  
patrick@pjbencalaw.com

**CERTIFICATE OF SERVICE**

I, Patrick J. Benca, hereby certify that a true and correct copy of the foregoing was served on the prosecuting attorney via electronic filing this 14th day of March, 2023.

/s/Patrick J. Benca  
Patrick J. Benca