

Judge Won't Step Down In Trial Of Murder Case

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Circuit Judge Hale R. Stancil Denied A Motion By The State Attorney That Claims Bias.

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By Sherri M. Owens, Sentinel Staff Writer

TAVARES -- The judge in the Joshua Walsh murder trial has refused to step down from the case, despite concerns he has overstepped his boundaries and is taking sides.

Circuit Judge Hale R. Stancil on Monday denied a motion filed by State Attorney Brad King asking that the judge be disqualified from further involvement in the case.

Walsh, 23, was convicted of third-degree murder in the Feb. 1, 2003, shooting death of 5-year-old Marishka Lovett during a road-rage encounter with the girl's father. He also was found guilty of aggravated battery with a firearm and shooting into an occupied vehicle. He faces a mandatory 25 years to life in prison, a penalty made stiffer because of the use of a firearm.

Last week, King asked the judge to step down. Most times, judges take action only on issues that lawyers for either side bring before them. King said that's not how Stancil handled the Walsh case.

Walsh's lawyer, Michael Graves of Tavares, has asked for a new trial. Stancil said no. Then Stancil told the lawyers to coordinate a hearing on several issues, including Walsh's claim of self-defense or defense of others, misstatements made by the state in closing arguments and whether Graves provided effective counsel. That hearing is scheduled for March 29.

King said the lawyers had not asked the court to consider any of those issues once the request for a new trial had been denied.

"Each of those issues raised by the court would be grounds for the court to overturn the jury's conviction of the defendant," King wrote in his motion.

King said in the motion that he spoke to Stancil about his concerns but was rebuffed. He said he feared the state would not receive a fair hearing from Stancil.

The law allows any party, including the state, to ask a trial judge to step down for several reasons, including "fears that he or she will not receive a fair trial or hearing because of specifically described prejudice or bias of the judge."

If the judge finds that the motion is legally sufficient, he is to enter an order granting disqualification.

Stancil said the motion was "legally insufficient and untimely."

The law says a motion to disqualify is to be filed "within a reasonable time, not to exceed 10 days after discovery of the facts constituting the grounds for the motion."

The trial ended Feb. 5, but transcripts provided by Stancil's office show the judge called for the supplementary hearing on March 9 and that King spoke to Stancil about his concerns on March 16.

"I think, in this case, you have stepped over from being neutral to taking sides," King said, according to the transcript.

Stancil disagreed.

According to the same transcript, he told King, "The Court is of the opinion now that some things need to be addressed, and the proper way to do it would be to address them prior to going further with any sentencing."

Stancil assured the lawyers that he would be fair.

"Throughout my 21 years on the bench, I've tried to make every decision based on two things, the law and the evidence, and nothing more, nothing less," the transcript shows he said.

Walsh's lawyer on Monday said he has no concerns about the judge's neutrality. During the trial, Stancil ruled in favor of some of his motions but he also ruled against some, Graves said.

"I have never had any doubt that Judge Stancil was ruling on the law and evidence as he saw it," Graves said. "I have no doubt that he will continue to do so."