

District Court Judge McKenna resigns ahead of election

BY GRANT GERSTNER
EDITOR

District Court 12th Judicial District Division 2 Judge Brittany B. McKenna had her last day on the bench April 2 after having submitted her resignation in mid-February.

McKenna's resignation letter states that she has accepted a position in private practice.

"After great consideration, consultation with my family, and prayer, I have decided to resign from the bench and return to the private practice of law," McKenna said in a statement to the Era.

"It was an extraordinary honor to serve the 12th Judicial District for the last five years, and I will carry this experience with me with great gratitude."

McKenna was originally appointed to the position by Gov. Andy Beshear in April

2021, filling the vacancy left by Judge Jerry D. Crosby II, who had been appointed to his current position presiding over the 12th Judicial Circuit. McKenna had also been nominated alongside Crosby for the Circuit Court position.



Brittany B. McKenna

According to the Administrative Office of the Courts (AOC), McKenna's court docket will be covered through the Retired Judges Program, which allows the Chief Justice to assign a willing and qualified retired judge or justice to temporarily fill vacant judicial positions across the state.

An AOC representative also stated that the plan to fill the vacancy long term is to be determined.

Though McKenna had filed for reelection in November, she told the Era she plans to withdraw — leaving only one candidate, Jessica N. Beard, on the general election ballot.

SUSPECT

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on the day in question," the motion reads.

Instead of presenting the entire footage to the grand jury, the motion states KSP "made the determination to cut the video without knowledge of the Commonwealth attorney" and that the grand jury "was presented with this strategically edited version for Napier to narrate."

The motion states that Napier can be overheard talking to the dispatch supervisor during the video, and after Napier "laments" about needing to leave for a wedding when a missing child report in Bedford came in, the dispatch supervisor tells Napier: "Get out on a stop. Just milk it. Just find somebody."

Napier is heard responding: "All right. I can do that."

Before the Napier ever saw the vehicle Walter was driving, he told the grand jury he stopped to help a vehicle with a flat tire. During the video, Napier is heard saying "I've gotta find a [expletive] car to stop, dude, like now. Actually dude, I'll just call out on a M.A., watch this."

Napier is then heard calling in on his radio: "I'll be out at the 24 south with a M.A. Just flagged me down." The video shows that a vehicle was on the side of the roadway, but that he was not flagged down and "was never actually asked to assist the motorist," according to the motion.

Though Napier told the grand jury he then left the pulled-over motorist, who didn't need assistance, and soon observed Walter driving erratically before turning on his police lights, the motion stated that the footage shows otherwise:

"... the in-car video shows it took nearly two more miles for Napier to position himself directly behind [Walter] ... after which he followed [Walter] for an additional two miles (roughly Exit 18) before his lights were initiated.

"During the roughly four minutes, the driver ... can be seen traveling with the flow of traffic, remaining in a single lane, and using his turn signal before merging only after the car in front had done so. Due to the withheld video, we now know this characterization of erratic driving was a total fabrication.

"... Napier did not observe the alleged behavior before initiating the stop. Instead, he followed the vehicle for nearly four miles without incident, and only after activating his emergency lights did the conduct he described occur."

The motion ends by stating that witnessing the full footage would have allowed the grand jury "to fully consider the evidence ... without bias or manipulation" and requests an evidentiary hearing to further develop a "factual record surrounding the testimony and evidence presented to the grand jury ..."

Further, due to the indictment being "based on false and misleading testimony and evidence," the motion requests the court to dismiss Walter's indictment.

PROSECUTION'S PREVIOUS COURT ACTIONS

Prior to the filing of Walter's motions to dismiss, prosecutors filed two documents into the court record — one of which is a motion to exclude evidence regarding Napier's motivations, conversations or alleged policy violations.

The Commonwealth's motion first notes that neither side of the case were privy to the video of Napier's conversations until about two years after the incident.

"The central issue at trial is whether [Walter], by fleeing police in a stolen vehicle at extreme speed, acted with wanton disregard for human life, causing the death of a child.

"Trooper Napier's comments about avoiding another call, attending a wedding, or 'looking for a vehicle to stop' have no bearing on [Walter's] voluntary decision to flee."

The motion argues that other courts have previously held that "negligence" from a pursuing officer is "not relevant" to determining if a defendant is guilty "as such information would not negate elements of the charged crimes or raise reasonable doubt."

Prosecutors also said they expected that Walter would argue that Napier "acted improperly before or during the pursuit" by citing his personal motivations, but stated that the Kentucky Supreme Court emphasized that "contributory negligence" from a pursuing officer "is never a defense to a crime."

The other document is a notice of intent to introduce further evidence, which first outlines the incident:

"On September 16, 2023, Tymetrius Walter operated a 2021 Honda Pilot that had been stolen in New York. [Walter] had recently absconded from probation supervision in Kentucky and traveled out of state.

"While returning to Louisville ... [Walter] encountered law enforcement on Interstate 71. A [KSP] trooper attempted a traffic stop, but [Walter] fled, accelerating to speeds in excess of 100 [mph]."

"[Walter] exited the highway at Crestwood and proceeded through a stop sign at the intersection of KY-329 bypass and KY-146.

"As he ran the stop sign, he struck an uninvolved vehicle containing a grandmother and her 10-year-old grandson. The child died on scene ... the grandmother sustained life-threatening injuries.

"Upon approach by officers, [Walter] ignored commands and displayed erratic behavior. He remarked, 'You weren't supposed to chase me,' indicating both flight motivation and awareness of his unlawful conduct."

The notice then lists evidence "for the permissible purposes for establishing motive, intent, knowledge, identity, absence of mistake or accident, and to present a complete narrative of events leading up to and surrounding the charged offense," including:

- Walter "had absconded from felony probation supervision" for a previous charge of "fleeing and evading" police in a stolen vehicle.

- Walter traveled to New York "where he stole a 2021 Honda Pilot and used it to return to Kentucky."

- Police reported recovering "marijuana packaged for resale" and "multiple [marijuana] roaches" from Walter's backpack.

- A toxicology report confirmed that Walter had "recent impairment," with over 36 nanograms per milliliter of THC in his bloodstream.

APRIL 2 HEARING, FUTURE COURT DATES

During an April 2 pretrial conference for the case, Vice Chief Regional Circuit Judge Jerry D. Crosby II said that he would review the several documents, and gave the prosecution 20 days to respond to Walter's motion to dismiss his indictment.

Walter has a final pretrial conference scheduled for June 4 at 1 p.m., and a trial date scheduled for July 6 at 8:30 a.m.

Look for updates in future editions of the Era.

MAYOR

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policy of non-partisanship, and that they were able to pull the printed copies, destroy them and reprint an updated version without the statement. Howard also told the Era none of the local agencies were charged for the reprint.

In a conversation with the Era, Black stated that he believed the price for the various La Grange government agencies was "about \$1,700 a page." La Grange City Council financial records show that the city paid a total of \$6,920 for their four pages in the newsletter.

Black also explained his thoughts on mentioning his candidacy in the letter:

"To be perfectly honest, I've had many, many, many people question me on why I'm not running for Mayor again ... [and with] this being the last publication of the thing that I've been writing in since day one ... it was basically a gesture to say where I was going.

"I think the fact I mentioned that May 19 is the [election], I think that helps the process [and] I think that helps other candidates as well — putting everybody on notice that there will be an election ..."

"I just [wanted] to tell people I thank them for their time [and] I would be right down the street possibly — I didn't say I would, but that there was an election coming up and it was just basically a farewell with no intent to suggest they vote for me or anyone else."

Black also mentioned that the page featured the names and photos of the current council members — all of whom are candidates for La Grange government offices.

Though he included them "just to show the public that they are presently city council members," Black said that other La Grange candidates "may not think that was appropriate."

"The truth of the matter is ['What's Happening!'] didn't question the article themselves in their proofread. It was another political opponent that called them and put me on notice

through a text to me that they didn't like the fact that I did that.

"They called 'What's Happening!' and 'What's Happening!' had already printed it because they had already proofread it — evidently they thought it was OK — but another political opponent raised the issue and thus they backed it off."

Black was unwilling to tell the Era which of his four opponents contacted him about the magazine.

Kentucky Press Association legal counsel Jeremy Lister-Perlman of Kaplan Johnson Abate & Bird provided the following statement regarding the situation:

"Any attempt to use public funds to promote a public official's campaign poses serious ethical and legal concerns. All public officials in LaGrange are bound by a code of ethics that prohibits them from using their offices to secure advantages for themselves.

"By law, La Grange tax dollars can only be spent on proper expenditures as determined by the City Council."

ELECTION

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- June 2 at 4 p.m. is the deadline for non-partisan candidates — such as most incorporated cities — to file for election.
- Sept 19 is when the online mail-in absentee portal opens for general election mail-in ballot requests

- Oct. 5 at 4 p.m. is the deadline to register to vote or make registration changes for the general election.

- Oct. 20 at 11:59 p.m. is the deadline for making mail-in ballot requests in the online mail-in absentee portal.

- Oct. 21-23, 26-28 are the scheduled days for excused, in-person absentee voting.

- Oct. 29-31 are the scheduled days for no-excuse, in-person early voting.

- Nov. 3 is general election day.

DATA

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"I think all of the magistrates who have made proposed changes can go to the SRC, they can also come here when we have the public hearing and explain their rationale behind the changes they [requested]," Baxter said. Baxter also reminded the

commission that the moratorium on data centers — which effectively pauses all data center development within Oldham County — will stay in effect until the fiscal court approves regulations on data centers.

Fischer stated that the earliest the SRC could address the regulations would be at their April 23 meeting, meaning that — if the SRC is ready to sent the regulations

forward at their April meeting — the earliest the Planning Commission could consider the regulations is on May 26.

The commission then unanimously approved a motion to send the regulations to the SRC for further review, including any additions or corrections.

Look for updates in future editions of the Era.



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