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Yakima County prosecutor target of complaint to state bar

Posted on May 31, 2014

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Yakima County Prosecuting Attorney Jim Hagarty

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By Donald W. Meyers / Yakima Herald-Republic
dmeyers@yakimaherald.com

Phone: 509-577-7748

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YAKIMA, Wash. — Two days after a murder trial ground to a halt after Yakima County Prosecuting Attorney Jim Hagarty accused a judge of bias and sought her removal, Hagarty became the subject of a complaint to the state bar.

A complaint filed Friday with the Washington State Bar Association accuses Hagarty of trying to intimidate the presiding judge in the trial of four suspects in the killing of a Yakima real estate broker.

The complaint came from Harold Delia, who said he filed it as a concerned resident, not in his official capacity as the county's court consultant.

"I've been in this business for 40 years, and I have never seen anything like this before," Delia said Friday. "This strikes at the heart of the legal system, and if we allow this kind of behavior to occur, I believe we are attacking the rule of law and how our system works."

Delia said he notified the Yakima County Superior Court's executive committee that he was filing the complaint, but didn't seek its permission. The committee is composed of Presiding Judge David Elofson, Presiding Criminal Judge Richard Bartheld and Judge Ruth Reukauf, who is the subject of Hagarty's allegations.

Hagarty could not be reached for comment on Friday. Court officials have said he is on vacation in Hawaii; messages and texts sent to his cellphone were not returned. A call to the state bar association also was not

returned.

If a complaint for misconduct is upheld, there are several levels of sanctions depending on the seriousness of the finding. The bar association can issue an admonition or reprimand or recommend to the state Supreme Court that the attorney's license be suspended or the attorney be disbarred.

On May 21, Hagarty sent Elofson a four-page letter asking him to either encourage Reukauf to recuse herself from hearing the cases of the four people accused of killing 79-year-old Vern Holbrook, or to remove her if she doesn't voluntarily step aside.

Hagarty alleged Reukauf has been biased against prosecutors in several high-profile cases, including the Holbrook case.

"Judge Reukauf has an agenda, and that agenda is to discredit my office every chance she gets," Hagarty wrote. "It is impossible for the State to get a fair trial in front of her."

Hagarty's letter prompted Reukauf on Wednesday to postpone pretrial hearings in the Holbrook case scheduled for next week. Instead, she set a June 9 hearing on whether to recuse herself and to consider defense attorney arguments that Hagarty's actions amount to prosecutorial misconduct that warrant dismissing charges against their four clients.

Delia's complaint said Hagarty has taken no active role in prosecuting the Holbrook case, which is being handled by a deputy prosecutor who has not raised the issue of judicial bias.

Delia is also critical of the way Hagarty raised his complaint against Reukauf in a letter, rather than filing a legal motion to have Reukauf recused.

"None of the issues raised in the letter have been previously raised by any attorney involved in the case and offered for discussion in open court. At no time has any lawyer or party involved in the case(s) filed an affidavit of prejudice, nor has there been a request for Judge Reukauf to recuse herself," he said.

Hagarty could have also issued a "blanket affidavit of bias," which would have blocked Reukauf from hearing cases filed by prosecutors, Delia said. Hagarty used such an affidavit in 2009 against Yakima County District Judge Ralph Thompson, whom Hagarty argued lacked legal knowledge.

"The letter is an attempt by the elected prosecutor to embarrass or affect Judge Reukauf's decision making in the four pending cases. This ... letter has no legal or ethical purpose," he said.

If Hagarty is not punished for his actions, Delia said, other "unsavory attorneys" would use the same tactic and throw the judicial system into chaos.

"I've spent too many years in this system to let that happen," Delia said.

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