



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

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October 27, 2016

Chief Justice Patience D. Roggensack  
Supreme Court of Wisconsin  
110 E. Main Street, Suite 215  
P. O. Box 1688  
Madison, Wisconsin, 53701-1688

Re: *State ex rel. Unnamed Pet. v. Peterson*  
2012AP0296-OA, 2014AP0417-0421-W, 2013AP2504-2508-W

Dear Chief Justice Roggensack:

The purpose of this letter is to offer assistance to the Court, on behalf of the Wisconsin Department of Justice, in bringing this litigation to a definitive and timely conclusion.

On July 16, 2015, this Court “end[ed] the John Doe investigation because the special prosecutor’s legal theory is unsupported in either reason or law.” *Two Unnamed Petitioners v. Peterson*, 2015 WI 85, ¶ 135, 363 Wis. 2d 1, 866 N.W.2d 165, clarified on denial of reconsideration by *Three Unnamed Petitioners v. Peterson*, 2015 WI 103, 365 Wis. 2d 351, 875 N.W.2d 49. This Court’s decision affirmed Judge Peterson’s January 10, 2014, order, which found that search warrants executed, and subpoenas issued, in the John Doe proceeding were unlawful and that property seized must be returned.

Now that the “the investigation is closed,” *Two Unnamed Petitioners*, 2015 WI 85, ¶ 135, I agree that it is now time to discharge the John Doe Judge. See Letter on behalf of Judge Wambach, dated Oct. 20, 2016. Unnamed movants and other interested parties have filed motions both in this Court and with Judge Wambach related to the disposition of certain evidence. Having a John Doe Judge overseeing this “closed” John Doe investigation creates confusion as to whether that judge should act upon these pending motions, or wait for this Court to act upon other similar motions pending before this Court. Since this Court has issued an order governing the ultimate disposition of all evidence, see *Three Unnamed Petitioners*, 2015 WI 103, ¶¶ 29–37, this Court should be the single court to address any orders for relief regarding that evidence.

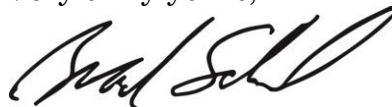
Hon. Patience D. Roggensack  
October 27, 2016  
Page 2

Furthermore, I agree with those unnamed petitioners who advocate for the appointment of a special master. The purpose of this appointment would be twofold, in my view. First, the special master should investigate and confirm the final disposition of the unlawfully seized evidence in this case. This Court has ordered the prosecution team to be “completely divested” of all evidence seized during the John Doe investigation. *Three Unnamed Petitioners*, 2015 WI 103, ¶¶ 29–37. It is important that all involved, directly and the public in general, have confidence in the final results of this process. Therefore, an independent court-appointed special master is necessary to investigate and confirm that the prosecution team has, in fact, been “completely divested” of this evidence. Second, the special master should investigate the breach of the secrecy orders in this case related to the September 14, 2016, article published in *The Guardian*. Even a cursory review of those documents published (among the documents are John Doe testimony transcripts and exhibits) indicates that these documents were obtained in violation of the secrecy orders in this case. This Court has imposed upon lower courts a “clear duty” to investigate possible violations of a secrecy order, *see State v. O’Connor*, 77 Wis. 2d 261, 282, 252 N.W.2d 671 (1977), and a special master would be in the best position to fulfill this “clear duty.”

Any special master appointed, however, will face a daunting task of ensuring compliance with this Court’s orders and investigating the breach of the secrecy orders. To assist this Court in this endeavor, the Department of Justice is willing to provide investigatory support and legal advice to any special master this Court chooses to appoint. To this end, in order for any special master to be able to prepare a complete report and recommendation to this Court in a timely manner, any order from this Court appointing a special master should be clear (1) to vest the special master and his or her agents with the authority to compel attendance and testimony of witnesses through subpoena, and (2) to require complete and full cooperation of those individuals already bound by the secrecy orders.

Please contact me if you have any questions concerning this offer of assistance.

Very truly yours,



Brad D. Schimel  
Attorney General of Wisconsin

Hon. Patience D. Roggensack  
October 27, 2016  
Page 3

cc: Honorable David Wambach  
Attorney Francis Schmitz  
Milwaukee County District Attorney John Chisholm  
Dane County District Attorney Ismael Ozanne  
Iowa County District Attorney Larry Nelson  
Attorney Dean Strang  
Attorney Matthew O'Neill  
Attorneys Todd Graves and Edward Greim  
Attorney Edward Meyers  
Attorney Dennis Coffey  
Attorney Steven Buskopic  
Attorney Eric Wilson  
Attorney Timothy Hansen  
Attorney Jeffrey Morgan  
Attorney Bud Cummins