



Christopher Graves
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Chief District Judge Debra S. Sasser
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July 6, 2021

Re: Unprofessional behavior by magistrate officials at Wake County Detention Center

Dear Chief Magistrate Graves and Chief District Judge Sasser:

I am writing to you with concerns about improper behavior by Magistrate Powe, which resulted in the denial of my client's rights, as well as unprofessional and threatening behavior by Magistrate Jackson at the Wake County Detention Center, earlier today.

Emancipate NC client Kathy Greggs (DOB 12/23/1977), who is the President of the Fayetteville Police Accountability Task Force, was arrested at the North Carolina General Assembly on June 29, 2021 on a charge of Second-Degree Trespass. Upon her arrest, officers took Ms. Greggs to the Wake County Detention Center. I was in communication with her that morning and, in the course of her arrest, appeared at the magistrate's office, identified myself as her attorney, and noticed my intent to appear on her behalf before Magistrate Judge Powe.

Despite my repeated requests, I was denied access to my client, denied the ability to participate in the hearing, and was told by Magistrate Godwin that I could try and listen to the proceeding through a device that did not allow for two-way communication. I looked helplessly through a glass at Ms. Greggs but was not able to hear, as the speakers were inoperable. With no other alternative, and in an attempt to stop the trampling of my client's constitutional right to counsel, I tried to get the attention of Magistrate Powe as best I could.

Magistrate Powe saw me but continued to communicate with my client. When I informed Magistrate Powe that my client had a right to have her counsel participate in the proceedings in which he set terms of release, he responded, “We will have to agree to disagree.” Had I been permitted to participate in the proceeding, I would have moved the court to release Ms. Greggs on a written promise to appear, rather than on an unsecured bond.

It is incumbent upon magistrates to be familiar with the law about a defendant’s right to counsel. In this case, the magistrate’s obligation under the North Carolina General Statutes was clear. The statutes set forth—in multiple places—that during an initial appearance before a magistrate, “[i]f the defendant has counsel, the defendant *shall be allowed* to communicate fully and confidentially with his attorney during the proceeding.” G.S. 15A-511(a1); *see also* 15A-532(b) (same). The magistrate does not have the discretion to deny them counsel. In North Carolina, “[w]hen a defendant is arrested for a felony or misdemeanor (with or without a warrant), the Sixth Amendment right to counsel attaches at the defendant’s initial appearance before a . . . magistrate under G.S. 15A-511.” John Rubin, et al., North Carolina Defender Manual, Vol. 1 Pretrial, § 12.4A (2d ed. 2013).

This is not just a matter of statutory obligation. The U.S. Supreme Court has also held that “a criminal defendant’s initial appearance before a judicial officer, where he learns of the charge against him and his liberty is subject to restriction, marks the start of adversary judicial proceedings that trigger attachment of the Sixth Amendment right to counsel.” *Rothgery v. Gillespie Cty., Tex.*, 554 U.S. 191, 212 (2008); *see also* Rubin, et al., at § 12.4C (stating that “the right to counsel attaches at the defendant’s initial appearance before a magistrate”). Ms. Greggs was denied her Sixth Amendment and statutory right to counsel by Magistrate Powe when he ordered that I would not be permitted to participate or communicate with my client.

This unlawful deprivation of counsel was compounded by unprofessional and threatening behavior by Magistrate Shelley Jackson toward me during the incident. Magistrate Jackson, possibly because of previous interaction with Emancipate NC, refused to pass a message from me to Magistrate Powe about the proceeding, refused to provide her first name (which we were aware of due to a prior unpleasant incident), threatened me with arrest and contempt, and was generally unprofessional and hostile throughout the interaction. One must wonder if this public servant is so discourteous with a fellow officer of the court, how must she treat lay citizens?

This is our organization’s second unprofessional and threatening encounter with Magistrate Jackson in the last 8 months. As Chief Magistrate Graves will recall, he was called upon to re-issue \$10,000 in bond receipts to our Associate Director, attorney Elizabeth Simpson, in November 2020, after Magistrate Jackson refused to provide those bond receipts to her upon request and then repeatedly threatened her with arrest and directed a deputy to “take her to the back”—a command that the deputy declined to enforce. At that time, Chief Magistrate Graves apologized for Magistrate Jackson’s unprofessional conduct and stated that he would ensure that

it did not recur. Clearly, she has not been deterred from threatening individuals with arrest when they seek to enforce their basic rights.

Our organization takes this matter seriously. Given the volume of cases handled by your magistrates, it is imperative that their confusion about the right to counsel be addressed immediately, and that they be instructed about how to interact courteously with the public. We stand ready to provide additional information about this matter if asked, and we anticipate your timely reply.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dawn Blagrove', with a stylized flourish at the end.

Dawn Blagrove
Attorney & Executive Director