



Law Office of the
PUBLIC DEFENDER
Seventeenth Judicial Circuit

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January 24, 2018

The Honorable Jack Tuter
Chief Judge
Broward County Courthouse
Room WW 20170
Fort Lauderdale, FL 33301

Re: Judge Lazarus remarks at first appearance court

On Friday, January 19, 2018, Senior Judge Joel Lazarus presided over first appearance court. Prior to and during the proceedings, Judge Lazarus made several remarks that demonstrate that he should not hear criminal cases. These statements have been widely disseminated on the internet, undermining our community's faith in the integrity and independence of the judiciary. I am requesting that you immediately remove Judge Lazarus from hearing not only future first appearance dockets, but all further criminal matters.

Prior to the morning session, Judge Lazarus appeared on camera and began to review the docket's probable cause affidavits. Though an assistant state attorney was in the courtroom at the time, there was no defense attorney present. After reading one report, Judge Lazarus remarked, "I'll double the bond...[the alleged incident] took place in my neighborhood. Closer to my house, the higher the bond. That was always Lazarus' Rule."^[1]

Later, Judge Lazarus instigated an ex parte discussion with the assistant state attorney regarding a case on the docket.^[2] Judge Lazarus reviewed the underlying facts of the offense as well as his proposed ruling that he would not find probable cause. The Assistant State Attorney responded that he would then be seeking additional time to establish probable cause, to which Judge Lazarus advised that he would grant that request. Sure enough, when the case was called, the hearing proceeded as planned in the improper ex parte discussion.^[3] This conduct is clearly improper and erodes the public trust in the criminal justice system.

^[1] See enclosed DVD, AM Bond Court Friday 1-19-18 at 6:30.

^[2] AM Bond Court at 10:15.

^[3] AM Bond Court at 1:40:13.

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During the afternoon 2nd look docket, Judge Lazarus further showed his lack of impartiality when dealing with a defendant facing a misdemeanor cannabis allegation.^[4] Judge Lazarus seemed to entirely miss the purpose of the 2nd look docket as he refused to reconsider reducing the \$100 bond for an indigent defendant being held solely on a misdemeanor cannabis charge. Even though the case had not been filed, the defendant wished to resolve his case so he could be released from custody. Judge Lazarus offered to resolve the case for an adjudication and time served. When asked if he would withhold adjudication, Judge Lazarus stated “absolutely not, I don’t do that.” When challenged with the information that other judges typically withhold adjudication in misdemeanor cannabis cases, Judge Lazarus advised that he does not, and that he would “treat him consistent with the way I treat other defendants.” These additional policy statements evidence an antiquated sentencing approach to cannabis that is at odds with our county, state, and nation’s evolving attitude and show that with him, criminal conviction is the only resolution.

In one day, Judge Lazarus made two policy statements (as to bonds and as to sentencing) that would place any reasonable defendant appearing before him in fear of not receiving a fair and impartial hearing. Judge Lazarus only validated these fears by instigating an ex parte discussion and then handling the case as planned. These concerns were broadcast live on the internet, damaging the community’s trust in Judge Lazarus and damaging the overall confidence in the judiciary. Due to his misguided remarks and predetermined positions on the issues facing a criminal court judge, I would ask that Judge Lazarus be removed from hearing all future first appearance and other criminal matters.

Thank you for your immediate attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Howard Finkelstein". The signature is fluid and cursive, with a large initial "H" and "F".

Howard Finkelstein
Public Defender

cc:

Michael Satz, State Attorney

^[4] See enclosed DVD, PM Bond Court Friday 1-19-18, at 46 17