

**VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF ALBEMARLE**

COMMONWEALTH OF VIRGINIA )

v. )

JACOB JOSEPH DIX, )  
*Defendant.* )

Case No. CR23-145

**MOTION TO RECUSE**

COMES NOW Defendant Jacob Joseph Dix, by undersigned counsel, who moves this Court to recuse the Hon. Claude V. Worrell, II and all other judges of the 16<sup>th</sup> Judicial District from presiding over this matter.

In support of his motion, Defendant avers the following.

**I. Factual Background**

1. Defendant is charged herein with one count of burning an object with the intent to intimidate under Va. Code §18.2-423.01. The charge relates to Defendant’s alleged participation in a torchlit demonstration on August 11, 2017. On that date, Defendant and others allegedly “burned” citronella torches on the grounds of the University of Virginia while expressing political speech protected under the First Amendment of the United States Constitution and under Article One, Section 12 of the Virginia Constitution.
2. On the night of August 11, 2017, activist groups opposed to the political demonstrations planned for August 12 held what they called an “interfaith meeting” at St. Paul’s Memorial Episcopal Church (“St. Paul’s”). This church is located at the intersection of University Avenue and Chancellor Street in Charlottesville, approximately 100 yards from the Thomas Jefferson statue on the North side of the Rotunda at the University of Virginia. Any person

standing at St. Paul's has a direct view of the Jefferson statue and the North side of the Rotunda across the street.<sup>1</sup>

3. Despite its innocuous label, the interfaith meeting was not merely an ecumenical gathering of religious believers. The meeting was organized by Congregate Charlottesville, an activist group formed in the summer of 2017 specifically to oppose and obstruct the political demonstrations planned for August 11 and 12. Prior to the meeting, this group conducted “a series of trainings” for local activists:

Individuals who attended these trainings told us that their goal was to create “cognitive dissonance” and to delay and obstruct the hate speech that they expected. They wanted to be visible in the opposition to the right-wing groups and make it harder for them to have a platform to express racism. In service of that mission, they were willing to break the law and expected to be arrested. Although they had been warned about the potential for violence, few expected it.<sup>2</sup>

The final training session of the summer was the so-called interfaith meeting at St. Paul's.<sup>3</sup>

Attendees indeed sang religious songs and heard sermons, but its main purpose was preparing counter-protestors to “make it harder for” Defendant and fellow demonstrators “to have a platform to express racism” during the weekend's planned events.<sup>4</sup>

4. The interfaith meeting at St. Paul's began a few hours before the torchlit demonstration. It was attended by members of local and out-of-state activist groups including Black Lives Matter, visiting clergy, Princeton University professor and celebrity activist Cornel West,

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<sup>1</sup> Hunton & Williams, LLP, FINAL REPORT, INDEPENDENT REVIEW OF THE 2017 PROTESTS IN CHARLOTTESVILLE, VIRGINIA. P. 113 (Nov. 24, 2017). A copy of the relevant pages cited in this motion are collectively attached hereto in numerical page order as Exhibit A. The full report is available at <https://www.documentcloud.org/documents/4639041-Heaphy-Report> (retrieved 9/22/23).

<sup>2</sup> *Id.* p. 73.

<sup>3</sup> *Id.* Pp. 72-73.

<sup>4</sup> *Id.* See also Chris Suarez, Group Calls for 1,000 Faith Leaders to Protest Aug. 12 Rally, Daily Progress, July 31, 2017, [https://dailyprogress.com/news/local/group-calls-for-1-000-faith-leaders-to-protest-aug-12-rally/article\\_03c12494-7650-11e7-af2b-03239d27aa3a.html](https://dailyprogress.com/news/local/group-calls-for-1-000-faith-leaders-to-protest-aug-12-rally/article_03c12494-7650-11e7-af2b-03239d27aa3a.html) (retrieved 9/22/23) (describing Congregate Charlottesville's role in planning the interfaith meeting).

Charlottesville's then-Mayor Mike Signer, and hundreds of other individuals.<sup>5</sup> Attendees heard exhortations from speakers emphasizing the need to resist the lawful speech of Defendant and other demonstrators. Professor Cornel West told attendees the planned demonstrations were “the biggest gathering of the hate-driven right wing in the history of this country in the last 30 to 35 years.”<sup>6</sup> Mr. West described Charlottesville as “the ground zero for the struggle against white supremacy and the alt-right.”<sup>7</sup>

5. Among the meeting attendees was Judge Claude V. Worrell, II (“Judge Worrell”), presiding judge of this Court and the Chief Judge of Virginia’s 16<sup>th</sup> Judicial District, along with his wife, Kathryn Laughon, and his daughter.<sup>8</sup>
6. As the interfaith meeting progressed, the torchlit demonstration began at approximately 9:30 p.m. on the University of Virginia grounds across the street from St. Paul’s. Defendant and others allegedly marched from the nameless field adjacent to Memorial Gymnasium to the south-facing (lawn) side of the Rotunda, then proceeded around the Rotunda to the Thomas Jefferson statue on its North side. At that point, the demonstrators were visible and audible to attendees of the interfaith meeting at St. Paul’s.
7. At some point during the interfaith meeting Judge Worrell felt threatened by Defendant and the other demonstrators across the street. Judge Worrell called Lieutenant James Mooney of the Charlottesville Police Department (“CPD”) using his personal cell phone and demanded Mooney explain “what CPD intended to do to protect the crowd” at the meeting.<sup>9</sup> Meeting attendees then locked the doors of the church to await police action.

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<sup>5</sup> Final Report, Pp. 113-14.

<sup>6</sup> Chris Suarez, Faith Leaders Gather on the Eve of “Hate-Driven” Unite the Right Rally, Daily Progress, August 11, 2017, [https://dailyprogress.com/news/local/faith-leaders-gather-on-the-eve-of-hate-driven-unite-the-right-rally/article\\_b1f33600-7f02-11e7-9b3c-7308e1924381.html](https://dailyprogress.com/news/local/faith-leaders-gather-on-the-eve-of-hate-driven-unite-the-right-rally/article_b1f33600-7f02-11e7-9b3c-7308e1924381.html) (retrieved 9/22/23).

<sup>7</sup> Id.

<sup>8</sup> At the time, Judge Worrell was a judge of the Juvenile and Domestic Relations Courts in the 16<sup>th</sup> Judicial District.

<sup>9</sup> Final Report, P. 115.

8. Very soon after Judge Worrell's phone call, CPD officers at the scene declared the torch demonstration an unlawful assembly, dispersing the crowd. It is possible CPD declared the unlawful assembly at least in part due to Judge Worrell's conversation with Lieutenant Mooney.<sup>10</sup>
9. The demonstrators dispersed as instructed after CPD's declaration. Attendees at the interfaith meeting left the church a few minutes later without incident.
10. Judge Worrell's wife and daughter also felt threatened that night. In 2020, Ms. Laughon and Judge Worrell's daughter appeared on a podcast to describe what they experienced that evening:

[Podcast Host]: As Kathryn and her family sat riveted inside the Church, she saw on her twitter feed what was happening outside. White supremacists holding tiki torches were marching all around them chanting Nazi slogans, like "Blood and soil."

...

[Kathryn Laughon]: I don't even know how to talk about being in that church. It was surreal. It was surreal because the service ended but we were surrounded by Nazis. And we couldn't leave. And so [meeting attendees] just kept singing.

...

[Judge Worrell's Daughter]: After it was over, we had to stay inside the church, and we had to leave quietly and in small groups. And it was terrifying. I present very white to the world. I'm mixed. I'm black and I'm white, and I'm also gay. And you may not know these things looking at me. But it was still terrifying because my large black father was in that church with us. We had to run to our cars to try and stay away from these people because they were going to attack us.<sup>11</sup>

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<sup>10</sup> See Erin O'Hare, Standing Together: UVA Students Refused to Back Down From the Face of Hate, Cville Weekly, August 23, 2017, <https://www.c-ville.com/standing-together-uva-students-refused-back-face-hate> (retrieved 9/22/23) ("All the while, the people in St. Paul's across the street were kept in the church on lockdown...By about 10:30 p.m., police had shown up, declared an unlawful assembly, and disbanded the crowd; folks were allowed out of St. Paul's by about 11pm [sic].").

<sup>11</sup> The Pledge Podcast, *My Whole World Shifted*, Season 2, Ep. 6 (1/5/2020), <https://www.thepledgepodcast.com/season-2>. A transcript of the episode is attached hereto as Exhibit B.

11. Judge Worrell, his wife, and his daughter all participated in the events forming the basis of the charge against Defendant. All three will potentially be called as witnesses by during the trial in this matter. Their testimony is probative regarding what actions law enforcement took that evening and on whose command or request to do so; what statements, if any, were made by Defendant during the torchlit demonstration; what actions, if any, Defendant and his Co-Defendants took that night and/or how such persons behaved; the location of the demonstration, which is relevant as to whether Albemarle County Circuit Court is the proper venue for this case; and whether counter-protesters such as Worrell and his family felt a reasonable fear of bodily harm at any point that evening.
12. Judge Worrell has not yet presided over any hearings in Defendant's case. However, he presided over hearings involving Co-Defendants William Fears, Tyler Dykes, and Dallas Medina among others. Judge Worrell made rulings adverse to those Co-Defendants that may have been influenced by his personal experience on August 11.
13. When denying bond to Mr. Dykes, for instance, Judge Worrell asserted that Mr. Dykes could not be trusted to be of good behavior if released. He cited concerns about Mr. Dykes' ongoing alleged antisemitic behavior when considering Mr. Dykes' danger to the community under Va. Code §19.2-120.<sup>12</sup> Were Judge Worrell's impressions of Mr. Dykes influenced by his personal experiences on the night of August 11? Did Judge Worrell or his family in fact interact with Mr. Dykes that night, giving the judge a prejudicial perspective on Mr. Dykes' case? Did they personally hear Mr. Dykes say something antisemitic? Judge Worrell clearly believed Defendant and Mr. Dykes were threats to his safety on the night of the alleged

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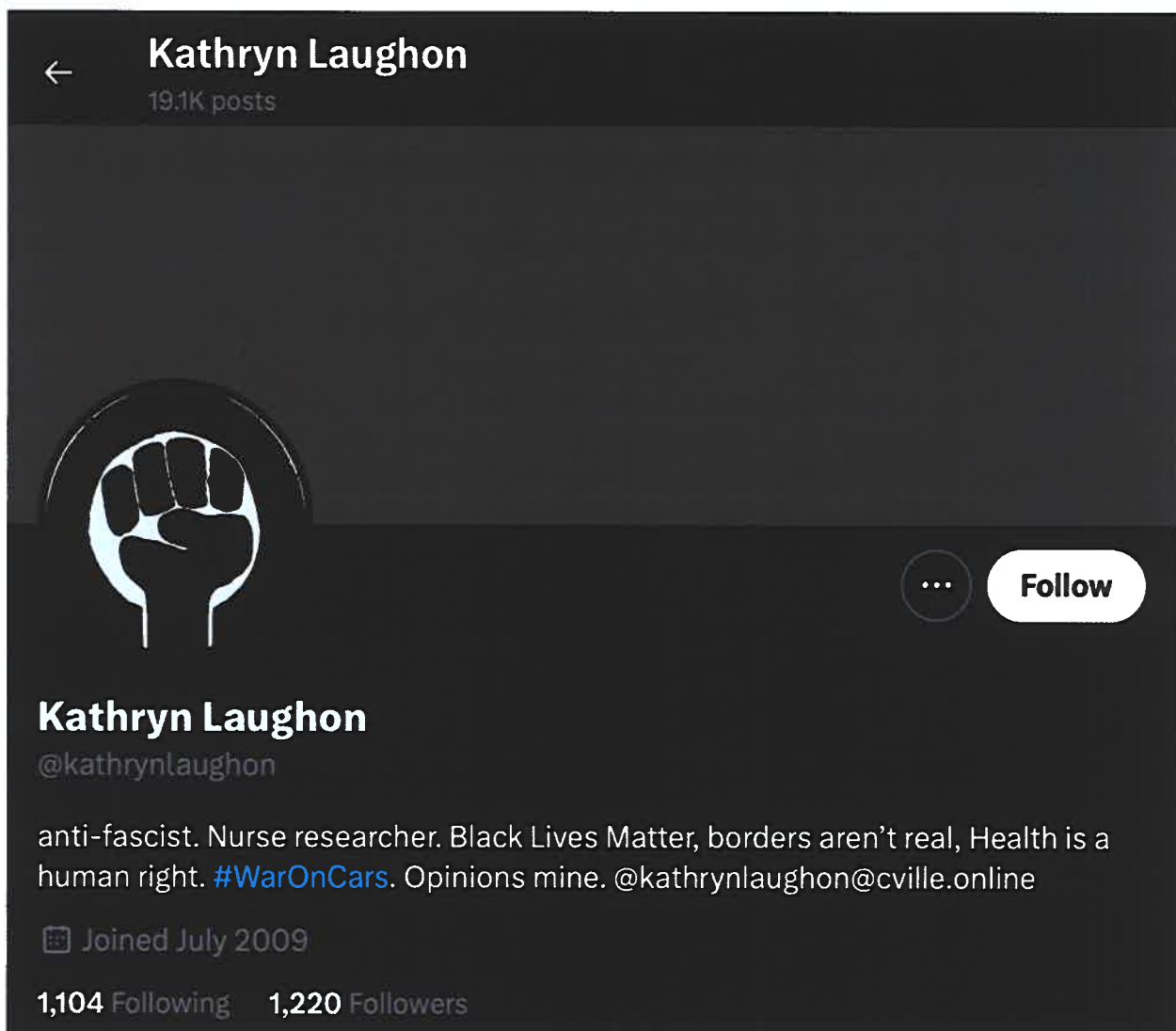
<sup>12</sup> See Hannah Rabinowitz, [Judge Denies Bail for Man Charged in 2017 Charlottesville March](https://www.cnn.com/2023/04/21/us/charlottesville-rally-suspects-court/index.html), CNN.Com, <https://www.cnn.com/2023/04/21/us/charlottesville-rally-suspects-court/index.html> (retrieved 9/22/23).

offenses. Perhaps that view remains unshakable, continuing to influence his rulings to this day.<sup>13</sup>

14. Judge Worrell may be scheduled to preside over future hearings in Defendant's case, and this matter may be tried by the bench without a jury. Judge Worrell could therefore be the ultimate factfinder at the guilt/innocence phase of Defendant's case. Given the depth of his personal involvement in the events of August 11, Judge Worrell will never—*can* never—provide a fair trial in this case.
15. Defendant's concerns about Judge Worrell's impartiality in this case are exacerbated by the social media activity of Judge Worrell's wife.
16. This is Ms. Laughon's X (formerly called Twitter) profile, which upon information and belief is personally controlled by her:

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<sup>13</sup> Mr. Dykes subsequently pleaded guilty in his case. See CR23-52. An observer must wonder if Judge Worrell's handling of his bond hearing influenced Mr. Dykes' decision to plead guilty.



Ms. Laughon notes her connection to Black Lives Matter, one of the activist groups that protested against Defendant and his fellow demonstrators on August 11 and 12. She also notes her status as an “anti-fascist.”

17. One recent post clearly shows Ms. Laughon, Judge Worrell, and their children, including the daughter who attended the interfaith meeting on August 11. This seems to confirm the account is operated by Ms. Laughon:



18. 2019 was an election year for the position of Albemarle County Commonwealth’s Attorney.

On October 3, 2019, Ms. Laughon attended a political debate between incumbent Albemarle County Commonwealth’s Attorney Robert Tracci and challenger Jim Hingeley.<sup>14</sup> While at the

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<sup>14</sup> Interestingly, Ms. Laughon does not reside in Albemarle County. Ms. Laughon was therefore not eligible to vote in the Albemarle County Commonwealth’s Attorney race during the 2019 election.



debate, she posted on X about statements made by the debaters:



“A11” is shorthand for August 11, referring to the torch demonstration at issue in this case.

“Kessler’s prosecution” refers to the 2018 criminal case of Jason Kessler, one of the organizers of the demonstration, who therein was found not guilty of perjury in this Court.<sup>15</sup>

Kessler may be an unindicted Co-Conspirator in this case.

19. While still at the debate, Ms. Laughon then posted this interaction with a journalist who was also present:

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<sup>15</sup> See CR17-673.



This is a direct reference to the legal issue at the heart of this case. Robert Tracci publicly stated numerous times while Albemarle County Commonwealth’s Attorney that he would not bring charges against Defendant and his Co-Defendants under Va. Code §18.2-423.01 because carrying a lit citronella torch cannot possibly constitute “burning an object” under that code section.<sup>16</sup> Evidently Ms. Laughon disagreed with Mr. Tracci’s argument because

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<sup>16</sup> See, e.g. Robert Tracci, Amend Virginia’s Burning Object Statute, Cville Weekly, September 11, 2019. <https://www.c-ville.com/burning-questions-why-county-prosecute-torch-marchers/> (retrieved 9/22/23) (“In a memorandum to then-city manager Maurice Jones, Charlottesville’s prior commonwealth’s attorney declined prosecution under the burning objects statute, stating: ‘There is a threshold problem with the statute. The statute refers to ‘burn an object.’ The question could arise—and would in criminal law—as to whether carrying a burning torch falls within the definitional scope of burning an object. That alone could prevent a prosecution.’ While this memorandum distinguished the May and October torch-lit rallies from the August 11, 2017 rally on UVA Grounds, the ‘threshold problem’ conforming a tiki torch to the burning objects statute presents in all three rallies.”)

she felt that Defendant and his Co-Defendants "ASSAULTED" and "TERRORIZED people."<sup>17</sup>

20. In 2022, while this case was being investigated, Ms. Laughon posted a blatantly racist statement aimed at persons sharing Defendant's ethnicity and former political beliefs:

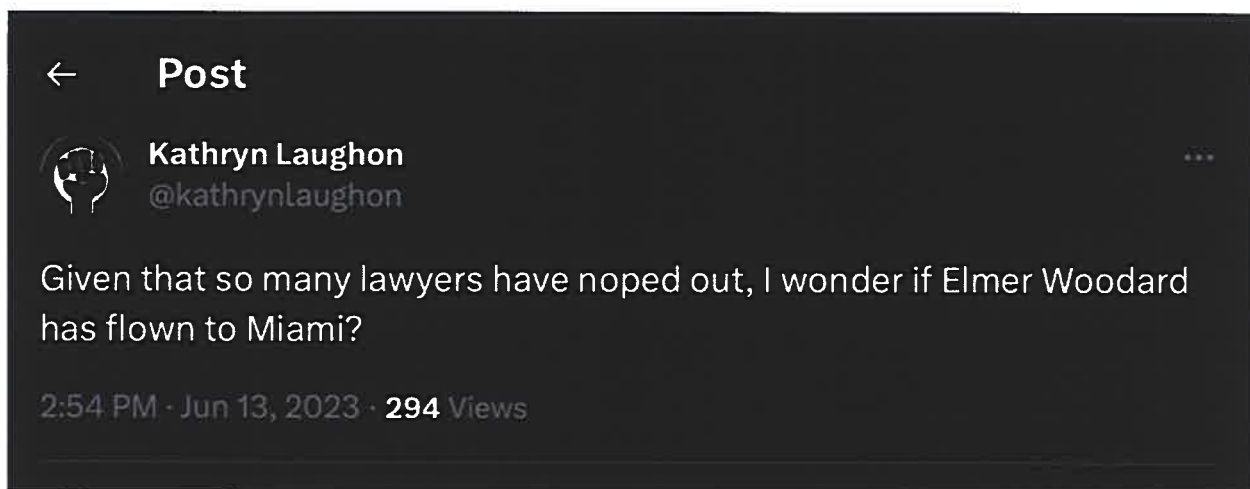


21. During the pendency of this case, Ms. Laughon commented about the attorney status of certain Co-Defendants. This post alludes to social media rumors that many attorneys declined to represent those Co-Defendants for political or publicity reasons. Ms. Laughon suggests that Elmer Woodard, an attorney who previously represented some of the torch demonstrators in other criminal and civil matters, must have retired to Florida:<sup>18</sup>

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<sup>17</sup> Neither assault nor "terrorizing" is an element of the corpus delicti under Va Code §18.2-423.01. So even if Ms. Laughon's assertions are accurate, Mr. Tracci's assessment of this case remains correct.

<sup>18</sup> For a general through rather slanted overview of Mr. Woodard's involvement in previous cases, See Ian Shapira, Pittsylvania County Lawyer Who Once Defended the Poor in Court Now Defends White Supremacists, The Washington Post, July 2, 2018, [https://www.washingtonpost.com/local/he-once-defended-the-poor-in-court-now-he-defends-white-supremacists/2018/07/01/0c7bfa6a-6901-11e8-9e38-24e693b38637\\_story.html](https://www.washingtonpost.com/local/he-once-defended-the-poor-in-court-now-he-defends-white-supremacists/2018/07/01/0c7bfa6a-6901-11e8-9e38-24e693b38637_story.html) (retrieved 9/22/23).



22. Ms. Laughon has also responded to others' posts about these cases. Here is Ms. Laughon "liking" a tweet by a journalist who reported extensively on the case against Co-Defendant William Fears:



Judge Worrell presided over hearings in Mr. Fears' case. His signature appears on an order therein dated August 8, 2023.<sup>19</sup>

23. Ms. Laughon later "liked" another user's post about the arrest of aforementioned Co-Defendant Tyler Dykes on charges related to riots in Washington D.C. on January 6, 2021:

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<sup>19</sup> See CR23-53.



“Charlottesville tiki torch carrier” refers to Mr. Dykes’ case before this Court. Judge Worrell presided over hearings in that case, including the bond hearing discussed *supra* in which Judge Worrell expressed harsh criticism of Mr. Dykes.<sup>20</sup>

24. All of this social media activity is publicly disseminated. Ms. Laughton does not hide her online activity in any way.

<sup>20</sup> See discussion *supra* Pp. 5-6.

25. This social media activity raises significant questions about Judge Worrell's impartiality in these matters. Is Judge Worrell, like his wife, an "anti-fascist" associated with groups who counter-protested Defendant and his fellow demonstrators on August 11? Has Judge Worrell already determined (incorrectly) that Defendant violated Va. Code §182.423.01 because he and his fellow demonstrators "ASSAULTED" and "TERRORIZED" people? Does Judge Worrell, like his wife, "honestly... hate white people" and all their "white supremacy bullshit?"

**II. Recusal is required under the Virginia Canon of Judicial Ethics and related Jurisprudence.**

26. The Virginia Canon of Judicial Ethics and related jurisprudence mandate Judge Worrell's recusal from this case.

27. According to the Virginia Canon of Judicial Ethics, Canon 1(D)(1), a judge must recuse himself in "a proceeding in which the judge's impartiality *might reasonably be questioned*" (emphasis added). An actual bias or demonstrated, explicit impartiality is not required: recusal is mandated in any instance where a Defendant, an attorney, or the public might have reasonable concerns about a judge's impartiality based on appearances or particular circumstances. A judge's decision whether to recuse himself "must be guided not only by the true state of his impartiality, but also by the public perception of his fairness, in order that public confidence in the integrity of the judiciary may be maintained." Prieto v. Commonwealth, 283 Va. 149, 163 (2012) (quoting Wilson v. Commonwealth, 272 Va. 19, 28 (2006); See also Aiken County v. BSP Div. of Envirotech Corp., 866 F. 2d. 661, 679 (discussing analogous Federal rule) ("The question is not whether the judge is impartial in fact. It is simply whether another, not knowing whether or not the judge is actually impartial, might reasonably question his impartiality on the basis of all the circumstances.")).

28. Canon 1(D)(1) outlines specific instances wherein a judge must recuse himself. Canon 1(D)(1)(a) requires recusal where “the judge is cognizant of personal bias or prejudice concerning an issue, a party, or a party’s lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding.”
29. Judge Worrell obviously has “personal knowledge of disputed evidentiary facts” in this case. He not only witnessed the events in question on the night of August 11; he was an active participant in them. He and his family attended the activist-organized interfaith meeting at St. Paul’s. When the torchlit demonstration began, Judge Worrell saw and heard the event from directly across the street. He felt personally threatened by the demonstration to such an extent that he personally called CPD officers demanding immediate protection from Defendant and his fellow demonstrators. He and/or his family members may have even seen or interacted with Defendant that night. Few people on earth have more detailed personal knowledge of this case than Judge Worrell. He may be called as a witness by one or both parties in this case.
30. Judge Worrell may be called upon to make the determination of Defendant’s guilt or innocence in this case. If this case is tried by a jury, Judge Worrell will still be called upon to make pretrial, evidentiary, and credibility rulings that must by law be based solely on the facts presented. Defendant will be severely prejudiced if Judge Worrell’s verdict or rulings are based, even partially and even subconsciously, on the Judge’s personal knowledge of the facts in question rather than based solely on the evidence presented. This concern is reasonable given that no individual, on the bench or otherwise, can be expected to wholly ignore personal memories of an event—especially memories apparently quite traumatizing for the individual and his family— and focus only on evidence presented about that event by

others. Judge Worrell will naturally evaluate every witness' credibility, and the reliability of other evidence presented, against his own indelible memories of August 11.

31. Judge Worrell, along with his wife and daughter, have all manifested a personal bias against Defendant and his Co-Defendants. On the night of August 11, the Worrell family attended a training led by aggressive left-wing activist groups where they received instruction on how to "delay and obstruct" Defendant's free speech, even to the point of breaking the law. These activist groups believed Defendant's free expression under the First Amendment constituted racist "hate speech."<sup>21</sup> Judge Worrell's attendance at this meeting suggests he and his family agree with the positions of those activist groups. His attendance alone therefore raises doubts about his impartiality because a judge cannot participate in activism opposing a Defendant's political demonstration and then later adjudicate a criminal case based on that demonstration. At the meeting, Judge Worrell summoned police to protect him and other meeting attendees from perceived threats by the demonstrators. Statements by Judge Worrell's wife and daughter on a publicly disseminated podcast more than two years after the events show that the Judge's family experienced some degree of lasting psychological trauma from the events, which they attribute to Defendant and his fellow demonstrators. His daughter evidently feared her "large black father" would be the victim of a racial hate crime. His wife found it "surreal" to be "surrounded by Nazis." And of course, his wife's recent social media activity explicitly shows that at least one member of the Worrell family "hate[s] white people" and all their "white supremacy bullshit."

32. Canon 1(D)(1)(d) mandates recusal in any case wherein "the judge is a material witness in the matter." This rule is a specific application of Virginia Sup. Ct. Rule 3:7. Canon

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<sup>21</sup> "Hate speech" is a colloquial term typically referring to speech that certain hearers deem mean or vulgar or insulting. It is not a legal designation under any current state or Federal law.



1(D)(1)(g)(iv) also mandates recusal when a judge's immediate family member "is to the judge's knowledge likely to be a material witness in the matter." Here, Judge Worrell, his wife, and/or his daughter may all be called as material witnesses in this matter. His wife will certainly be called as witness to testify at the hearing on this motion.

33. Under Canon 1(D)(4), "a judge should disclose information that the judge believes the parties or their lawyers might reasonably consider relevant to the question of disqualification, even if the judge believes there is no real basis for disqualification." Defendant's case has been pending since April 3, 2023. At no point during the pendency of this case has Judge Worrell made any disclosures concerning his actions on the night of August 11; nor, to Defendant's knowledge, has the Judge made any such disclosures in cases involving Co-Defendants. Defendant herein expended significant effort and resources uncovering information which should have been disclosed by Judge Worrell months ago.

34. This case is definitely one in which Judge Worrell's impartiality might be reasonably questioned. Even if Judge Worrell believes he can be impartial, the overwhelming amount of demonstrable, publicly available evidence raising serious doubts about his impartiality give the impression to any observer that the integrity of this case has been thoroughly compromised.

### **III. Recusal is required on Due Process grounds.**

35. Judge Worrell's continued participation in this case also violates long-established jurisprudential standards governing Defendant's right to Due Process under the Fourteenth Amendment to the United States Constitution.

36. The Due Process Clause operates in three primary ways in state cases: 1.) it incorporates many provisions of the Bill of Rights against the states; 2.) it bars certain government action

that affects certain substantive rights regardless of the fairness of the procedures used to implement them; and 3.) it guarantees fair procedures. See Daniels v. Williams, 474 U.S. 327, 337 (1986) (Stevens, J., concurring) (“[T]he Due Process Clause of the Fourteenth Amendment...is the source of three different kinds of Constitutional protection.”).<sup>22</sup>

37. Due Process “is not a technical conception with a fixed content unrelated to time, place, and circumstances;” rather, how Due Process applies in each case must be determined on the circumstances particular thereto. Cafeteria Rest. Workers Union v. McElroy, 367 U.S. 886, 895 (1961) (quoting Joint Anti-Fascist Refugee Comm. v. McGrath, 341 U.S. 123, 162-163 (1951) (Frankfurter, J., concurring)).

38. If a judge possesses actual or perceived bias against a defendant, that defendant will not receive a fair trial. And of course, “it is axiomatic that a fair trial in a fair tribunal is a basic requirement of due process.” Caperton v. A.T. Massey Coal Co., Inc., 556 U.S. 868, 876 (2009).

39. Historically, Due Process only required a judge’s recusal when that judge had a “direct, personal, substantial pecuniary interest in the case.” Tumey v. Ohio, 273 U.S. 510, 523 (1927). Over time, though, the Supreme Court of the United States expanded Due Process protections to require recusal in cases where possible bias existed in any sense, even beyond the bias inherent to a pecuniary interest:

Every procedure which would offer a possible temptation to the average man as judge to forget the burden of proof required to convict the defendant, or which might lead him not to hold the balance nice, clear, and

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<sup>22</sup> Regarding incorporation, See Zinerman v. Burch, 494 U.S. 113, 125 (1990) (“First, the [Due Process] clause incorporates many of the specific protections defined in the Bill of Rights.”). Regarding barring government action, See Daniels 474 U.S. at 331 (“Historically, this guarantee of due process has been applied to deliberate decisions of government officials to deprive a person of life, liberty, or property.”); Regarding fair procedures, See, e.g., Matthews v. Eldridge, 424 U.S. 332 (1976) (explaining that procedural Due Process prevents government from freely depriving individuals of liberty or property).

true between the state and the accused, denies the latter due process of law.

Id. at 532.

The court refined this point in Withrow v. Larkin:

Not only is a biased decisionmaker constitutionally unacceptable, but our system of law has always endeavored to prevent even the probability of unfairness...[i]n pursuit of this end, various situations have been identified in which experience teaches that the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable.

421 U.S. 35, 46-47 (1975).

40. A recent case expanded Due Process Clause protections even further to include cases in which mere *perceptions* about a judge's neutrality implicate a defendant's Due Process rights. This case, Caperton v. A.T. Massey Coal Co., Inc., dealt with the appearance of partiality based on financial support for a presiding judge's election campaign by one of the parties. 556 U.S. 868 (2009). There, the Supreme Court re-emphasized that "the Due Process Clause...do[es] not require proof of actual bias." Id. at 883. It concluded that the appearance of partiality created by a litigant's financial support to a presiding judge indicated "a serious risk of actual bias—*based on objective and reasonable perceptions,*" and therefore denied Due Process to the opposing litigant. Id. at 884 (emphasis added).
41. The rules propounded by this line of Supreme Court jurisprudence effectively mirror those found in the Virginia Canon of Judicial Ethics and related Virginia jurisprudence cited *supra*. Put simply, both Constitutional and Virginia law demand recusal in any case wherein a judge's impartiality can be reasonably questioned given the circumstances. Actual bias need not be shown; only the mere appearance of bias or prejudice is required.
42. The facts, circumstances, and concerns surrounding Judge Worrell's actual and perceived partiality as discussed in Sections I and II *supra* also apply to the Due Process analysis here.

For the same reasons described in Sections I and II *supra*, Judge Worrell’s continued participation in Defendant’s case also constitutes a violation of Defendant’s Due Process rights under the Fourteenth Amendment to the U.S. Constitution. Judge Worrell must recuse himself.

**IV. Recusal of Chief Judge Worrell mandates recusal of all judges in the 16<sup>th</sup> Judicial District.**

43. The Chief Judge of each Judicial District in Virginia is the superior judicial officer in that district. The Chief Judge is chosen by a majority vote of the district’s Circuit Court judges. Va. Code §17.1-501. The Chief Judge “shall ensure that the system of justice in his Circuit operates smoothly and efficiently. He shall have authority to assign the work of the Circuit among the judges, and in doing so he may consider the nature and categories of the cases to be assigned.” *Id.*
44. Judge Worrell, elected by a majority vote of his peers, currently serves as the Chief Judge of Virginia’s 16<sup>th</sup> Judicial District. This district includes this Court and the Circuit Court of the City of Charlottesville, along with the Circuit Courts of Fluvanna, Louisa, Orange, Goochland, Greene, and Madison Counties.
45. Any judge presiding over this case may be called upon to evaluate the credibility of Judge Worrell and/or his immediate family members as witnesses in this matter. Thus, any judge from this District would be required to possibly make an unfavorable ruling against their superior judicial officer or his family members. The natural conflict of interest in that situation, or at least the *perception* of such a conflict of interest, cannot be mitigated absent recusal of all judges from this district.
46. Additionally, Judge Worrell already shared case information about certain Co-Defendants with at least one other presiding judge in this Judicial District. As noted in Section I *supra*,

Judge Worrell presided over hearings in the cases of Co-Defendants Dallas Medina, William Fears, Tyler Dykes, and possibly others. Judge Cheryl V. Higgins (“Judge Higgins”) also presided over hearings in those same cases, with both judges having access to the respective case files. To this point, only Judge Higgins has presided over the hearings in Defendant’s case, but it is possible, if not probable, that Judge Worrell has in some meaningful way reviewed, accessed, or managed Defendant’s case file as well.

47. Notably, Judge Worrell and Judge Higgins often share chambers in this Court, with pending case files equally accessible to both. They share the same court staff. As such, any concerns about Judge Worrell’s impartiality are imputed to Judge Higgins as well due to their overlapping duties with respect to this matter. Neither Judge has disclosed the existence of any sort of conflict “wall” between them to avoid potential conflicts.

48. Given the above, the Court must recuse all judges of the 16<sup>th</sup> Judicial District from presiding over this case. Having any judge of the 16<sup>th</sup> Judicial District preside over this case raises the same concerns under Virginia and Federal law as those described in Sections I, II, and III *supra*.


WHEREFORE, to ensure to Defendant’s right to a fair trial in this Court, Defendant moves that Judge Claude V. Worrell, II, and all other judges of the 16<sup>th</sup> Judicial District be recused from presiding in this matter.

RESPECTFULLY SUBMITTED  
JACOB JOSEPH DIX  
BY COUNSEL



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I certify that a true and accurate copy of this Motion was to hand-delivered to the Commonwealth's Attorney for the County of Albemarle this 25<sup>th</sup> day of September 2023.



Peter S. Frazier

# EXHIBIT A

August 8—four days before the event—to coordinate the arrival of the event speakers at Emancipation Park. Newberry also used their conversations to gather more intelligence.

In addition to Kessler, Brathovd, and Pierce, several other Unite The Right speakers or attendees spoke with CPD officers ahead of the August 12 event. Mike Enoch, an Alt-Right podcast host and event speaker, and Trace Chiles, a former member of the Fraternal Order of Alt-Knights, told us they had brief conversations with officers. Each told CPD that he expected a peaceful rally and hoped the police would protect Alt-Right groups from violent counter-protesters. We also learned that officers spoke with Eli Mosley and speaker Johnny Monoxide in advance of the event.

### **3. Community Preparation**

While CPD endeavored to gather information about what to expect on August 12, various groups within the Charlottesville community banded together to prepare for Unite The Right. We interviewed various stakeholders involved in these groups, including members of the clergy, social activists, business owners, and community members.

#### **a. The Clergy Collective and Congregate Charlottesville**

The Clergy Collective formed in the aftermath of the June 2015 Charleston church shooting with the goal to create interfaith and interracial conversations and opportunities for fellowship. Nominally led by Pastor Alvin Edwards of Mount Zion First African Baptist Church, the Clergy Collective began with fifteen pastors but eventually grew to over ninety people, both clergy and laity.

In advance of the July 8 Klan event, Mayor Signer and City Manager Jones came to a Clergy Collective meeting and asked for the group's help in "telling the story" of the day. In particular, Signer and Jones hoped to discourage attendance at the Klan event, and thought that the Clergy Collective could help organize and promote alternative programming that would take place simultaneously. Some within the Clergy Collective were put off by Signer and Jones's message, because many in the group felt called to confront the Klan and the speech they would present. Any attempt to push that confrontation away felt patronizing.

After the July 8 rally, the division within the Clergy Collective split. Many of the members who had gone to Justice Park on that day thought CPD had planned to do nothing but "protect white supremacy" and lacked a basis to use tear gas. The image of police focusing exclusively on protecting the Klan and then acting aggressively toward counter-protesters angered many, and that memory informed preparations for August 12.

Led by Seth Wispelwey and Brittany Caine-Conley, these individuals formed a new group called Congregate Charlottesville. Wispelwey told us that the Clergy Collective was too close to the City "establishment" and lacked transparency. He explained that Congregate Charlottesville's goal was to "equip faith leaders to show up on matters of justice." They put out a call for 1,000 clergy to attend the August 12 event. In the weeks leading up to August 12, Congregate organized a series of trainings for nonviolent direct action to anyone who was interested in participating. They brought in trainers from out of town, including Reverend Osagyefo Sekou. We learned that some trainings were attended by as many as



100 people, and participants were repeatedly warned about the potential for significant violence on August 12. Members of Black Lives Matter and Standing Up for Racial Justice also attended the trainings.

Individuals who attended these trainings told us that their goal was to create “cognitive dissonance” and to delay and obstruct the hate speech that they expected. They wanted to be visible in the opposition to the right-wing groups and make it harder for them to have a platform to express racism. In service of that mission, they were willing to break the law and expected to be arrested. Although they had been warned about the potential for violence, few expected it.

Reverend Edwards and the Clergy Collective were not part of this nonviolent training effort or otherwise affiliated with Congregate Charlottesville. Wispelwey told us that his group came to view Edwards as “working for the City” given his close coordination with City leaders and law enforcement. Such coordination is unsurprising in light of Reverend Edwards’s past roles as School Board member, Mayor, and City Councilor in Charlottesville. In any event, many were frustrated by the lack of success produced by engaging with City leaders. Congregate’s formation thus marked a sharp conflict between the “old guard” clergy and a younger, more confrontational generation of faith leaders.

On July 31, Congregate held a press conference to announce that several national leaders would be coming to Charlottesville for the weekend of August 12, including Cornel West and Traci Blackmon. Reverend Edwards was not told about the press conference or invited. According to Wispelwey, “sides were chosen.”

The Congregate organizers planned to host an interfaith prayer service on the evening of August 11 at St. Paul’s Memorial Episcopal Church. Located on University Avenue, St. Paul’s sits just across the street from the University of Virginia, a stone’s throw away from the iconic Rotunda and the statue of Thomas Jefferson.

#### **b. Local Activist Groups**

Local chapters of Black Lives Matter and Standing Up for Racial Justice were tangentially, though not entirely, affiliated with the faith community in the weeks leading up to August 12. Some members of those groups participated in the nonviolent resistance training sponsored by Congregate Charlottesville. The distrust these groups felt towards City leadership created distance ahead of the event.

Lawton Tufts and Anne Coughlin played a role in facilitating communication between members of BLM and SURJ and City officials. Tufts is an employee of the UVA School of Law and a former public defender who serves as a member of the Police Citizen’s Advisory Panel. Coughlin is a professor of criminal law at UVA. Tufts attempted to arrange a meeting between Reverend Edwards, BLM, Congregate Charlottesville, and CPD. BLM refused to attend the meeting if Chief Thomas attended, so the City sent Assistant City Manager Mike Murphy.

During the meeting, Murphy shared the City’s prediction that the right-wing groups present at Unite The Right would be armed. This alarmed Coughlin, who told us that she thought

protesters who would likely confront them. Nor did Gibson work directly with either Chief Thomas or Chief Lantz to coordinate a unified response. Gibson did not recognize that Kessler's controversial ideology might result in violent encounters with students or other demonstrators in Charlottesville for the events of August 12. In his interview with us, Chief Gibson recalled that he considered Kessler's march like any other political event on grounds. He noted that the University's public areas were fair game for any ideology, and UPD would only intervene if laws were broken.

Gibson did not communicate the potential threat to other first responders that might be required to manage a potential large-scale disruption, including the Charlottesville Fire Department and the Charlottesville-Albemarle Rescue Squad. Thomas and Lantz each took steps to prepare their respective departments to assist, but Gibson's failure to fully engage and leverage the law enforcement resources at his disposal, including VSP units already staging in Charlottesville for the Unite The Right event on August 12, resulted in a fragmented and disorganized response later that evening.

Chief Gibson also declined an offer of assistance from VSP. During his interview with us, Colonel Flaherty recalled that VSP tracked intelligence reports about the August 11 march, and troopers contacted UPD to offer assistance. According to Flaherty, Chief Gibson responded that he was aware of the reports and was preparing to monitor Kessler's activities.

Kessler, Cantwell, and others arrived at McIntire Park at 5:00 p.m. to discuss the plans for the evening. Cantwell asked if Kessler planned to coordinate with law enforcement. Kessler responded that he did not want to inform law enforcement, because he wanted the event to be a "secret." Cantwell strongly disagreed, noting that Antifa and other anti-racist groups often interfere with free speech events held in public areas. Cantwell refused to be a part of the march unless Kessler contacted law enforcement. Kessler then placed a call to Captain Lewis, who instructed Kessler to call UPD Patrol Lieutenant Angela Tabler. Kessler called Lieutenant Tabler, then passed the phone to an associate, who informed Tabler that the group planned to assemble at Nameless Field on the University grounds, march to the statue of Thomas Jefferson in front of the Rotunda, and make a short speech. There was no mention of torches.

#### **4. Interfaith Service at St. Paul's Memorial Episcopal Church**

St. Paul's Memorial Episcopal Church is located at the intersection of University Avenue and Chancellor Street in Charlottesville, directly across the street from the University. In the weeks leading up to August 12, St. Paul's associate rector Elaine Ellis Thomas, an ally of Congregate Charlottesville, asked the church rector, Will Peyton, for permission to host an interfaith service on the evening of August 11. Thomas informed Peyton that Princeton University Professor and longtime Civil Rights activist Cornel West planned to attend. Peyton gave his consent, as he recognized that St. Paul's was large enough to accommodate the sizeable crowd that Thomas anticipated. Peyton told us that he felt that "an interfaith service is never the wrong thing to do."

Around noon on August 11, Peyton decided to close the St. Paul's sanctuary for the afternoon and lock the building. Peyton anticipated that the attendance of Cornel West

would draw attention, and he wanted to prevent vandalism. Peyton and parish administrator John Reed also contacted CPD and asked to hire off-duty officers to provide security. CPD agreed and promised to send two off-duty officers.

Just before 4:00 p.m. that afternoon, Peyton returned to the church, expecting to find the building empty. Instead, Peyton found Osagyefu Sekou, a minister from New York City who achieved notoriety for his protest work in Ferguson, Missouri, leading a training session of more than 100 activists in the parish hall.<sup>289</sup> Unbeknownst to Peyton, members of Congregate Charlottesville had organized and presented a number of training sessions in nonviolent direct action conducted by Reverend Sekou in the weeks before August 12. Eugene Locke, a Charlottesville resident and retired minister, attended the training, and said that Sekou instructed attendees on nonviolent techniques for disrupting hate speech and obstructing law enforcement. A second session was scheduled for later that evening, at 9:30 p.m.<sup>290</sup>

Sekou's entourage informed Peyton that they were concerned about security at the interfaith service later that night. When Peyton explained that he had arranged to have CPD officers protect the service, Sekou responded that law enforcement "made [him] uneasy." Instead, Sekou proposed that Peyton allow his "security" to protect the parish. Shortly after this conversation, Peyton received a call from CPD, informing him that the department would be unable to provide off-duty officers.

University professor Willis Jenkins arrived at St. Paul's at 5:00 p.m. He became part of the security detail that was organized to protect the interfaith service. Mr. Jenkins met two members of the security detail who indicated that they were affiliated with Redneck Revolt, an anti-capitalist organization that also strongly endorses the Second Amendment.<sup>291</sup> Jenkins recalled that Redneck Revolt requested permission to carry firearms into the sanctuary, but the request was denied. The security team scouted the external perimeter, posted guards at ingress and egress points, and monitored the social media communications of Spencer, Kessler, and other supporters of the Unite The Right event.

The service began as scheduled at 7:00 p.m. The security team screened entrants at the door. Jenkins and others, including Casey Landrum, participated in searching backpacks. Jenkins admitted that white males entering the service were subject to enhanced vetting and asked multiple questions about their purpose in attending. Sekou asked to allow television cameras into the service. Peyton firmly denied the request, stating "this is not a media event, it is a prayer service."

Multiple witnesses testified that despite the security concerns, the first ninety minutes of the service were peaceful. Rabbi Tom Guthertz of Charlottesville's Congregation Beth Israel commented that the church was "full and overflowing," and that the service was "uplifting" due to the broad representation of different denominations and faiths.

## 5. Jason Kessler Moves Forward

After the service at St. Paul's began, the University and the UPD obtained additional information about Kessler's plans. At 7:41 p.m., the University discovered a social media post confirming that the event would take place on the University grounds.<sup>292</sup> Chief Gibson

passed the information along to Chief Thomas and Chief Lantz.<sup>293</sup> However, Gibson made no effort to prepare a unified law enforcement response. Chief Thomas shared the developments with Charlottesville City Manager Maurice Jones. Jones immediately recognized the gravity of the situation, and understood that CPD would be called upon to assist.<sup>294</sup>

The Mutual Aid Agreement between the City of Charlottesville, Albemarle County, and the University permits UPD to request assistance from CPD in managing events on the University grounds. However, for CPD officers to assist UPD, UPD must make a formal request for assistance.<sup>295</sup> CPD expected mutual aid to be requested and prepared to respond.

Lieutenant Dwayne Jones, the commander of the CPD midnight shift, informed his officers about the interfaith service and shared intelligence about the Unite The Right event. Lieutenant Jones departed from normal procedures and ordered his officers to travel two to a car.<sup>296</sup> Lieutenant Jones further ordered that in the event of a disturbance, two units, totaling four officers, were to respond.

At 8:10 p.m., one of Kessler's representatives contacted CPD and stated that the march would start at Nameless Field on the University grounds.<sup>297</sup> Chief Thomas passed the information on to Lieutenant Jones and to Lieutenant James Mooney, whose evening shift was guarding the Downtown Mall.<sup>298</sup> Lieutenant Mooney informed Chief Thomas that CPD would provide assistance to UPD upon request.<sup>299</sup>

Chief Gibson remained relatively unconcerned about the potential march, noting in an e-mail to Thomas and Chief Lantz that his officers were "good for right now" and were "watching this closely."<sup>300</sup> Chief Gibson's lack of concern was shared by senior members of the UVA administration. Shortly after Gibson contacted Thomas and Lantz, City Manager Maurice Jones e-mailed UVA Executive Vice President and Chief Operating Officer Pat Hogan, asking if UVA required assistance that evening. Hogan replied that Chief Gibson had "adequate coverage" for UVA, but asked if CPD would be "available to assist in other areas." Jones responded that he would "find out more."<sup>301</sup>

## **6. Difficulties at St. Paul's**

Mayor Signer was present at the interfaith service at St. Paul's. At 8:21 p.m., he sent a text message to City Manager Jones and Chief Thomas, informing them that "four alt right" were inside the church and appeared to be dangerous. Signer noted that no officers were present in the church.<sup>302</sup> Juvenile and Domestic Relations Judge Claude Worrell was also present and reached out to Lieutenant Mooney, noting that more than seven hundred parishioners were inside St. Paul's and asking Mooney what CPD intended to do to protect the crowd.

Willis Jenkins recalled that Congregate Charlottesville had allies monitoring social media and providing information to the security detail. At some point during the service, the security detail learned that an Alt-Right follower had sent a Twitter message from inside the church. The security detail identified a suspect but declined to remove the individual from the service, reasoning that he was unlikely to be armed.

# EXHIBIT B

# “My Whole World Shifted”

## *The Pledge Season 2 - Episode 6*

*A quick note--parts of this episode include sounds of violence that may be triggering, and reactions to that violence that contain strong language.*

Kathryn: You can't ignore Nazis. Right? You can't ignore the KKK. That they are, in fact, gathering in strength, that they have been ignored. It's been going on and it has been ignored. And that when they show up. It is incumbent on people who have privilege, right? People who have white bodies, to stand up and say, this isn't okay. And to put ourselves between these forces of evil, essentially, and everyone else.

Allison: This is The Pledge, a podcast profiling people who have pledged to engage in our democracy. I'm Allison Daskal Hausman. In this episode, we're going to Charlottesville, Virginia to find out what it felt like to be there during the summer of 2017.

*Background chant: "You will not replace us"*

Allison: That's the summer when hundreds of white supremacists came to protest the plan to remove the statue of the Confederate General Robert E. Lee. One of the white supremacists drove a car into a crowd injuring many and killing Heather Heyer.

In this episode, we're changing things up a little. We will explore activism in Charlottesville through the stories of three women. Each has a unique perspective, but they all were dramatically affected by the events of that summer two years ago. They are, Kathryn Laughon, who is white; Althea Laughon-Worrell, Kathryn's biracial daughter; and Miss Katrina Turner, who is black.

For Kathryn Laughon, the story starts on July 8<sup>th</sup>, 2017, a little more than a month before the infamous White Supremacist rally. At that time, Kathryn was reconciling mixed messages about what to do when confronted with hate groups like the KKK.

Kathryn: When I go back in time, places that I trusted as organizations who are sort of leaders and thinking about civil rights, their guidance was not to show up in these spaces. Not to show up to confront Nazis, not to show up to confront the KKK. That the better option was to not give them oxygen, not give them attention. And I'm sure you've

heard this, hold events somewhere else. You know, tra la la. We're here being peaceful. We are ignoring you.

Allison: This sounds familiar to me and raises such an interesting conundrum. Do we risk strengthening white supremacists when we fight back, because we give them more attention? Or is this just a way to bury our heads in the sand and pretend it's going to go away, leaving their hateful messages unchallenged? Kathryn started listening activist leaders in Charlottesville who didn't believe in the philosophy of keeping your distance. So she showed up on July 8th.

Kathryn: And the idea was we were going to leave this church and head downtown and surround the park where the KKK would be, and we would drown them out with our voices. I thought, well, OK, all right. This feels like sort of traditional protest march. This makes sense to me.

*Sirens, protest sounds*

Allison: But, it turned out to be more than a traditional protest march.

Kathryn: The police presence was overwhelming and the helicopter noise. We are literally singing this little light of mine, Right? And our little light is not shining because this helicopter is just, it's all you can hear. That's it. Helicopters.

Allison: Then the KKK showed up.

Kathryn: It was totally a pathetic band of pitiful people holding signs that were so, virulently anti-Semitic and racist. So it was like this combination of, just they're pitiful, we should ignore them, and I can't believe I'm seeing this.. I can't believe they're marching in public. They had the hats in this whole thing, swastikas.

Allison: They were proudly, publicly expressing their hate for Blacks and Jews.

Kathryn: And then, at the end of it, they left, they were escorted by the police. Escorted by the police who were lined up to protect them from us. Which makes no sense to me. None whatsoever. And then we were tear gassed. Because when the when when the KKK left, it was declared an unlawful assembly, we were declared, the anti-racist, anti-fascist protesters were declared an unlawful assembly. It was like watching a documentary, except it was in real life.

*Protest and police sounds*

Allison: An independent review found shortcomings in police training and coordination. Officers started to improvise, and mostly focused on protecting the Klan members, who were vastly outnumbered by the counter-protestors. But Kathryn saw herself as a peaceful protester of hateful speech. She will never forget what it felt like to be treated as a threat by the police. It terrified her.

Kathryn started worrying about what was going to happen on August 12 when a much bigger white supremacist rally was planned.

Kathryn: Boy, a switch flipped on that day. I came home from downtown and walked in the door and said August 12<sup>th</sup> is going to be a shit show.

*Music*

Allison: I went to Charlottesville because my friend, Lisa Drake, who lives there, wrote to me right after The Pledge launched and said I had to come and tell the stories of people taking action there. I'm so glad she did, because seeing the repercussions of that terrible day makes it so much clearer how destructive it was. I arrived the week after the two-year anniversary of the August 12<sup>th</sup> white supremacist rally. Lisa took me on a tour. We went to 4th street, where the car drove into the crowd and killed Heather Heyer. We also saw a mural celebrating 120 of the activists still fighting to confront the legacy of racism and white supremacy. There were large black and white photographs of the activists, with determined, strong, expressions, spread out, like patchwork, along the side of the building. The three women in this episode were all featured on the mural.

*Music*

Allison: Although the big rally was scheduled for August 12<sup>th</sup>, trouble actually started the night before. There was a service at St. Paul's Memorial Church on the University of Virginia campus, not far from the statue of Robert E. Lee that everyone was fighting about. Kathryn remembers that it was packed.

Kathryn: It was dangerously full. It was full. No fire marshall in the world was o.k. with how many people were in that church.

Allison: Kathryn had been worrying about what would happen ever since her experience at the Klan rally the previous month. Before they left the house, she brought her family together.



Kathryn: And said, “hey, why don't we all...” because Althea’s brother didn’t come with us. I said, “Why don’t we all have this cake? And I was very deliberate. I don't even know if they know that. That I was like, we need a moment as a family...I'm sorry...”

Allison: Her tears come suddenly. We had actually been talking for quite a while, but remembering this moment seemed to bring the fear right back.

Kathryn: So we had this little moment and then we went to the church, And it was quite a service that got preached. You know, Cornel West and Tracy Blackmon, and...

*Tracey Blackmon (preaching): As a little girl in Birmingham Alabama I can still remember standing on the street, on the sidewalk, and watching the Klan rally go by.*

Allison: Here’s Reverend Traci Blackmon that night.

*Tracey Blackmon (preaching): I can see it in my mind's eye.*

Allison: As Kathryn and her family sat riveted inside the church, she saw on her Twitter feed what was happening outside. White supremacists holding tiki torches were marching all around them chanting Nazi slogans, like “blood and soil.”

*chanting outside “Blood and soil, blood and soil...”*

Allison: There were hundreds of them.

Kathryn: I don’t even know how to talk about being in that church. it was surreal. It was surreal because the service ended but we were surrounded by Nazis. And we couldn’t leave. And so they just kept singing.

*Sounds of singing in church*

Allison: This was the first thing Kathryn’s daughter, Althea, described, when I asked her about that August weekend. She remembers how scared she was. She was sitting in that church with her white mother and black father.

Althea: After it was over, we had to stay inside the church, and we had to leave quietly and in small groups. And it was terrifying. I present very white to the world. I'm mixed. I'm black and I'm white, and I'm also gay. And you may not know these things looking at me. But it was still terrifying because my large black father was in that church with us.

We had to run to our cars to try and stay away from these people because they were going to attack us.

*Music*

Allison: The third activist I talked to was also in the church that evening. Katrina Turner, known as Miss Katrina. She is still outraged at what the white supremacists got away with.

Katrina: With the torches and everything they did Friday night, they were still allowed to come and try to have that rally. Saturday morning, after everything they did. And then, somebody died. Somebody died because they wouldn't listen to us. Those people said they were coming to hurt us.

Allison: Miss Katrina's criticism of the police started long before this weekend. One of her sons was arrested in April of 2016 after *he* had called 911. She explains that he was calling for help, but then he was the one that got arrested. She's filed several complaints since. The events in the summer of 2017 just add to Miss Katrina's anger with the Charlottesville Police Department.

On August 12<sup>th</sup>, Miss Katrina marched with that son. You might have seen the footage of the car barreling into the counter-protestors. Miss Katrina and her son were part of that group. A young white supremacist, who had driven from Ohio to attend the rally, deliberately drove his car into the crowd. He hit and killed Heather Heyer, a 32-year-old white Charlottesville woman who was there to protest the hate rally.

Miss Katrina's son barely missed getting hit. Her son had also been among those warning city officials about what could happen if the rally went ahead.

Katrina: He said, we told y'all don't come, we told y'all don't come, we came to City Council. He just went off about how we told them not to let these people come to this city. And now look.

Allison: You actually see him in the footage Spike Lee uses at the very end of his movie *BlackkKlansman*. I'll share that audio with you now, but I want to warn you again that it's upsetting.

*Movie sound.*

Allison: In the aftermath of the Charlottesville rally, the shock, grief and anger over Heather Heyer's death dominated coverage of what had happened, understandably so. But

because Heather was a white woman, it had the strange effect of distorting what the whole thing had been about.

Katrina: They have lost what that day was really about. After Heather died, that's all it's been about. But that day we marched for equal justice for black people. We marched because we can't even walk the streets sometimes without the police stopping us. Or we can't drive without the police coming behind us. Or go in the store, So we marched for our equality,

Allison: Miss Katrina is in no way minimizing the enormous loss of Heather Heyer. She just knows how crucial it is to focus on the fight that still needs to be fought.

Katrina: And Susan, Heather's mom, she knows she knows that also, you know, because she said that.

Allison: Heather Heyer's mom is actually determined to use the platform she's been given through this tragedy to keep the focus on fighting racism.

*Susan Bro (Heather Heyer's Mother): Many Black parents lose their children. Many muslim parents lose their children. Jewish parents lose their children and nobody pays attention. Because we have this myth of the sacredness of the white female, I've been given a platform. So I'm going to use that platform to keep drawing attention back to where the issues are.*

Allison: Issues like the trauma Miss Katrina and all the other marchers are dealing with since experiencing the violence.

Katrina: We need to take the focus off of the person who passed. We need to think about there were so many more that got hurt physically. And like I said, I might not have gotten hit by that car, but I can see it every day, you know? And it's never going to go away.

Allison: Take a second and think about what Miss Katrina is saying. That feeling, that fear, is never going away. She saw a man, fueled by racist hatred, deliberately drive a car into a crowd, including her son, with the full intention of hurting them. I've witnessed hate, but nothing like that, and not targeting my loved ones. I just want to recognize this suffering, that multiplies the damage this kind of terror inflicts. And I want to admire the courage and the fortitude of the people that keep fighting anyway.

Miss Katrina explains to me that her primary strength comes from the memory of another son, who was born disabled and passed away when he was only 23. She says that because of him, she will never stop fighting for justice.

Katrina: Nothing but death will stop me. Nothing but death. And he's my strength, lord and my son up above, that's my strength. That's what keeps me going. And with him always looking, over me. I'm never gonna stop. I'm never gonna stop, ever, ever.

Allison: Just as Miss Katrina's activism is stronger now, so is that of her co-activist, Kathryn Laughn. Kathryn keeps fighting, she stays engaged and her understanding about the injustice around her keeps evolving.

Kathryn: There are things I believed that I didn't even know, I believed. Right? The privilege of being a middle class, well-educated white woman is that I felt like I could critique policing and talk about ways that policing needs to improve and know that there were inequities, and still believe that no matter what, the police would protect me. Right? And that I counted on that. Like I didn't think I ever thought about the police. I didn't think I cared about this. I didn't think it had anything to do with me. And then I stood there and watched them not protect us. And my whole world kind of shifted.

Allison: The city's independent review confirms Kathryn's memory, it is unequivocal on the failures of the police that terrible weekend.

*Music*

Allison: Like Kathryn and Miss Katrina, Althea gained a new understanding of her role in society that August weekend. Shortly afterward, she decided to join the Black Student Union at her high school.

Althea: I kind of realized that I wasn't doing enough and that I hadn't really considered myself as white or as black. And I was like, I don't do enough. And there is a black student union here and I am friends with the president and then-vice-president. And there's no reason why I shouldn't join this club no matter how white I am. And so I joined and I'm glad I did, because I got to do a lot of really good work.

Allison: At the time the Black Student Union was led by Zyahna Bryant, a remarkable young African American woman who started the original petition to have the Robert E. Lee statue removed in Charlottesville. It was that effort that prompted white supremacists to schedule their hate rally. Zyahna has since been featured in national media and continues to be an influential organizer. She, and the other members of the Black Student Union, introduced Althea to organizing. Now, Althea's all in.

Althea: And I am a foot soldier in something that is bigger than me and is more important than me. And activism for me personally, it's a lot about the work that you can do and the

work that you have to do. And it's about constantly adapting and changing and educating yourself, because there is always more that you can learn.

Allison: Althea is primed to begin a new journey.

Althea: I have not done anything on a scale to which I think can make big waves, and I would like to become a person who can and will do things on a large scale.

*Music*

Allison: Three women, each finding a new sense of mission and purpose on August 12<sup>th</sup>, 2017. Each evolving, and continuing to fight for social justice. Something Kathryn said lingered with me - that activists can't always tell what their impact will be while they're doing it, but when we take action we're like drops in this river that carry us forward and make the change we seek.

As for Charlottesville, itself, the name of the park where the Lee statue stands has been changed twice. After the rallies, the City Council voted unanimously to change its name to Emancipation Park, and had the statue of Robert E. Lee shrouded in black plastic. A judge ordered the shroud to be removed in February 2018, and the Council voted to change the name of the park yet again, to Market Street Park, in August 2018. The statue still stands.

*Music*

If you are moved to help the survivors from that weekend, you can find links to two Charlottesville groups where you can send donations. Go to [thepledgepodast.com](http://thepledgepodast.com) and check out the show notes. I'll also post some additional resources about Charlottesville including the independent review of the events of that summer. It's goes into much more detail than I've been able to here.

*Music*

Allison: Our next episode is the final episode of Season 2, and we're going to warm things up with some soup.

*Activist: There's something that comes from making food and sharing food that is, you know, just feels very primal and very loving. For me, I just feel that that's what affects change.*

Allison: We will meet a dedicated group of chef-activists who have created a new recipe for change in Virginia, without ever leaving their home state of Vermont. Their solution is inspiring, and delicious.

Thanks so much to Kathryn, Althea, and Miss Katrina for generously sharing with me what happened in 2017 and the brave work they've done since.

Thanks also to my team:

- Sound design from Tina Tobey Mack;
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- Graphic Design from Patricia Nieshoff
- And last, but far from least, thanks to all of you who listen, share and have sent in donations to keep this podcast going. I am so grateful.

Until next time, Stay Strong and Stick with your pledge.