

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 02 CF 2453 (Jensen)
02 CF 2455 (Schultz)SCOTT R. JENSEN,
and SHERRY L. SCHULTZDefendants.

**DEFENDANTS' MOTION FOR RECONSIDERATION
AND, ALTERNATIVELY, MOTION FOR CHANGE OF VENUE**

Stephen J. Meyer, on behalf of Scott R. Jensen; and Stephen L. Morgan on behalf of Sherry L. Schultz, (collectively "the accused"), move this court for reconsideration of its non-final order entered on January 3, 2006, wherein the court denied the accused's motion for change of venue. This motion is brought pursuant to §971.22, *Stats*; the constitutional rights afforded to the accused by the Fifth and Sixth Amendments to the United States Constitution; the correlative sections of the Wisconsin Constitution; *Irvin v. Dowd*, 366 U.S. 717, 722, 81 S. Ct. 1639 (1961); *Sheppard v. Maxwell*, 384 U.S. 333, 363, 86 S.Ct. 1507 (1966); and *Groppi v. Wisconsin*, 400 U.S. 505, 509, 91 S. Ct. 490, 509 (1971).

1. In their last supplemental submission to the court, the accused presented evidence supporting their argument that, because all parties charged in the caucus scandal are represented by the media as being tied to the same investigation, prejudicial media coverage of events concerning other defendants in the caucus scandal has adversely affected the accused. In October of 2005, former Senator Brian Burke pleaded guilty to one count of felony misconduct in public office; Chvala pleaded guilty to the same in October of 2005.

2. In December of 2005, Bonnie Ladwig, a former co-defendant of the accused, pleaded guilty to a misdemeanor ethics violation in exchange for her cooperation in the prosecution of the accused. Ladwig's plea has been disseminated in articles, cartoons, and opinions as being tied not only to the accused's cases, but also to Burke and Chvala's guilty pleas.

3. Former Representative Steve Foti, yet another former co-defendant of the accused, has since pleaded guilty to a misdemeanor charge as well in exchange for his cooperation in the prosecution of the accused.

4. The net effect of this wave of guilty pleas of legislative figures charged in the caucus scandal has resulted in a domino effect of guilt in the public's mind. The Wisconsin State Journal projected this image in a cartoon in its editorial section on December 21, 2005, with Burke, Chvala, Jensen, Foti, Ladwig, and Schultz (in that order) connected in a string of dominos that begins to fall with Burke and Chvala's pieces toppling over first. *See* Exhibit B, 2nd Addendum, Item 21.

5. Given both the cumulative and recent effects of the prejudicial media coverage of the all parties charged in the "caucus scandal," an impartial jury cannot be obtained in Dane County by the granting of a continuance or through *voir dire* or some other measure of jury qualification.

6. Alternatively, the accused move the court to consider a change of *jury venire* as a sensible and viable option to a change of venue. The court may order that a jury panel from outside the circulation area of Madison Newspapers, Inc. and the Madison media market in general, be brought into Dane County for the accused's trial.

7. For all the foregoing reasons, to permit a jury comprised of residents of Dane County to adjudicate the accused's guilt is contrary to the constitutional protections afforded the accused by

the Fifth and Sixth Amendments to the United States Constitution, and the correlative sections of the Wisconsin Constitution.

WHEREFORE, the accused respectfully urge the court to reconsider its order and grant their motion for change of venue, or, alternatively, grant the accused's motion for change of jury venire.

Respectfully submitted this ____ day of January, 2006.

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