

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NORTH DAKOTA**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	<b>CR 17-00016-DLH</b>
<b>Plaintiff,</b>	)	
	)	
<b>- vs -</b>	)	<b>AFFIDAVIT OF</b>
	)	<b>RED FAWN FALLIS</b>
<b>RED FAWN FALLIS,</b>	)	
	)	
<b>Defendant.</b>	)	
	)	
<b>STATE OF NORTH DAKOTA</b>	)	
	)	<b>SS:</b>
<b>COUNTY OF _____</b>	)	

RED FAWN FALLIS, being duly sworn deposes and says:

I am the Defendant in the above entitled action and make this Affidavit in support of my Motion to Recuse. I am also a Lakota Water Protector.

I am aware of the serious criminal charges I face which have lengthy potential criminal sentences. I am therefore very concerned and believe that I deserve to receive a fair trial by a fair jury and have my trial held before an impartial judge. I also want a judge I can have confidence in who will make fair and just rulings prior to trial on issues raised by my Attorneys or the government.

As a Water Protector, I follow the news of decisions by the federal judge on the federal injunction issued against us at the request of the Dakota Access Pipeline company. I have read and heard that the Judge made a number of negative statements and reached the wrong conclusions about those of us who are trying to protect our water, the Missouri River and

surrounding area, and our sacred and ancestral sites from construction, operation, and contamination of this crude pipeline.

After being charged by the federal government, I learned that Judge Hovland would be my judge and that he was the same judge who issued the injunction against us. This caused me to become concerned about Judge Hovland's ability to be fair and impartial in my case.

I have since looked at a copy of the Orders issued by Judge Hovland in the injunction case, which increased my concern about his ability to be fair and impartial. I have also seen a copy of a transcript of the statements Judge Hovland made during a conference call in a lawsuit brought by Water Protectors trying to get an order from the Judge to stop the extreme violence that police and military people have used against us, despite our efforts at non-violence.

According to one of his Orders, from his own watching of local TV and reading the local newspapers, Judge Hovland concluded: "With respect to the assertion the movement has been a peaceful protest, one need only turn on a television set or read any newspaper in North Dakota. There the viewer will find countless videos and photographs of 'peaceful' protestors...verbally taunting, harassing, and showing disrespect to members of the law enforcement community."

I am very disturbed by seeing that Judge Hovland has personally watched a part of protests in Bismarck and negatively reacted to those around the federal courthouse and other parts of the City, describing Water Protectors "ignoring requests to disperse" and how restrained the Bismarck and other police were by not making hundreds of more arrests because they chose not to arrest "everybody that was acting in an unlawful, disorderly manner." The Judge also said: "To suggest that all of the protest activities to date have been 'peaceful' and 'lawful' defies common sense and reality."

Yet, I myself have experienced or seen videos or talked to victims and seen wounds and the effects of the great and frightening use of chemical gases against men and women, and sometimes children, as well as attack dogs, rubber bullets, a sound cannon, explosive devises and clubs, feet and fists as police and DAPL security have attacked us.

I do not believe that the judge will be fair and impartial in my case because he has described Water Protectors as a burden and plague on the state of North Dakota. I read that Judge Hovland has said that anyone who lives any place in North Dakota has seen on television countless numbers of videos and knows that it was not a peaceful and prayerful, nonviolent protest. Judge Hovland has said that he is not sure how the water protectors will ever be able to pick a jury in North Dakota because everyone, including the judge himself, has seen and been affected by the Water Protectors.

I am charged with being part of a “violent” civil disorder on October 27, 2016. According to Judge Hovland “almost everybody,” has seen “what went on...in October and the months leading up to that.” From that evidence that was not even presented in the court, Judge Hovland has concluded that a “riot” took place on October 27, although what occurred and what was occurring at the time of my arrest is the major question to be decided at my trial. The Judge already decided that one person that day had a firearm - something I am charged with. I am charged with a crime of violence. I have also read how Judge Hovland has already decided that those of us who have been arrested were arrested because Water Protectors were being “unlawful and violent.”

Judge Hovland has also made conclusions about why a Water Protector would wear a gas mask in the presence of police, falsely claiming it must be to hide identity. The judge specifically says that he has seen water protectors outside of his courtroom wearing masks. Since documents



from the government's discovery describe a witness who says I was wearing a gas mask that day, the Judge's personal experience with and wrongful conclusions as to why I might have done this says to me he is not impartial and, as with many of the issues above, has already decided major portions of my case.

Finally, in my own case, after months of being in custody without any major problems, and with my Federal Probation Officer recommending that I was eligible for release to a half-way house through my trial under certain conditions, the Magistrate issued an Order setting the various conditions for my release. Judge Hovland then overruled Magistrate Miller's decision and denied my release. He did so without giving me or my attorneys any opportunity to respond to the government's motion to appeal the Magistrate's order of release, even though I understand the Rules say I should have had 14 days from the day the government filed its request to Judge Hovland to overturn the Magistrate's decision and keep me in pre-trial detention.

It therefore seems to me that Judge Hovland has pre-decided opinions on all aspects of my case and that he will not consider my case individually based upon evidence presented in court in my case. Judge Hovland continually sides with the government in deciding what are the facts, relies on TV, some of his own out of court observations, and things not based on evidence in court to make decisions. Based on the things he has said and written, Judge Hovland has a personal bias or certainly appears to be biased in favor of the government and against me to the point that I believe I cannot receive a fair trial in front of him, and that he does not believe there is any truth to what the different Water Protectors in his court have to say. On the matter of my freedom, he did not even give me chance to show why the Magistrate was right and that I would not be a flight risk or a danger to the community if released to the halfway house in Fargo.

I therefore respectfully ask you, Judge Hovland, to remove yourself from making any further decisions in my case and that my case be transferred to another judge through my trial.

  
RED FAWN FALLIS

Sworn and subscribed to this 9<sup>th</sup> day of April, 2017.

  
NOTARY PUBLIC

My Commission Expires: 8-11-21

