

# Water Protector Legal Collective

On-the-ground legal support for the Dakota Access Pipeline resistance at Standing Rock



## FOR IMMEDIATE RELEASE

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## WATER PROTECTOR RED FAWN FALLIS SEEKS RECUSAL OF JUDGE IN FEDERAL CASE

*Water Protectors' Rights to Due Process Violated by Judicial Bias*

**BISMARCK, NORTH DAKOTA:** Lakota Water Protector Red Fawn Fallis through her attorney Bruce Ellison has filed a Motion for an Order of Recusal requesting that Federal Judge Daniel Hovland disqualify himself from further proceedings in her case due to his apparent bias against Water Protectors.

Ms. Fallis is facing three federal felony charges in relation to allegations stemming from her involvement in the No Dakota Access Pipeline (NoDAPL) movement. Her Motion for Recusal is based on Judge Hovland's admitted reliance upon out-of-court evidence--such as television and news reports, as well as his own personal observations--in deciding facts related to cases involving NoDAPL Water Protectors. In one instance, Judge Hovland wrote in a court order on September 16, 2016:

*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' protesters...verbally taunting, harassing, and showing disrespect to members of the law enforcement community.*

The Motion for Recusal is also based on bias demonstrated specifically toward Ms. Fallis by Judge Hovland's decision to violate court rules by reversing within 24 hours an order issued by Magistrate Charles Miller releasing Ms. Fallis to a halfway house prior to her trial. In doing so, Judge Hovland did not give Ms. Fallis the opportunity to respond to the government's motion to revoke the Magistrate's order, in violation of Local Rule 47.1 of the North Dakota District Court.

Ms. Fallis, in an affidavit accompanying the motion for recusal, wrote:

*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....*

*It...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.*

WPLC considers the evidence of the judge's bias against Ms. Fallis and other Water Protectors to be yet another piece of the broader effort to undermine the right to a fair trial guaranteed to all Water Protectors, and to unfairly target indigenous individuals involved in the indigenous-led NoDAPL movement.

Bruce Ellison, attorney for Red Fawn Fallis, said, "the documents we filed in Court on Thursday and Judge Hovland's own statements and rulings show that the lack of due process given to Red Fawn Fallis by this Court is consistent with what seems to be the unquestioned acceptance of all facts alleged by the government, the Dakota Access corporation, and local media. The role of the judge is to be fair and impartial, and to independently decide the case in spite of media and government portrayals of events related to the conduct of Red Fawn and other Water Protectors on the day of her arrest. The statements made on the record and the rulings by Judge Hovland clearly create, at least, the appearance of partiality."

Water Protectors who have seen and experienced bias and discrimination by public officials based on their indigeneity or political associations are encouraged to contact the Water Protector Legal Collective for advice and representation.

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*The Water Protector Legal Collective (WPLC) provides on-the-ground legal representation and coordination for Water Protectors engaged in resistance to the Dakota Access Pipeline at Standing Rock, ND in partnership with the National Lawyers Guild (NLG). To support the work of WPLC, please visit <https://fundrazr.com/RedOwlLegal>*

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