Supreme Court of Arkansas

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Hon. Carol Dalby
Chairperson, House Judiciary Committee
Arkansas House of Representatives
(via email and hand delivery)

Dear Chairperson Dalby,

I write concerning Chief Justice Karen Baker's testimony before the House Judiciary Committee yesterday. It has come to my attention that Chief Justice Baker testified to the Committee that, "our new Justice Bronni has had to recuse on all our criminal cases"[1] and that my purported-blanket recusal encompassed "not just original cases, but also, our post-conviction cases."[2] Chief Justice Baker also testified that as a result, "we can't move forward with any criminal cases."[3]

Unfortunately, those statements are not accurate. As the Chief Justice is aware, I have not recused from "all our criminal cases" and the Court continues to move forward in criminal cases with my participation. Rather, as the Arkansas Code of Judicial Conduct requires, I have only recused on cases that I was directly or indirectly involved with during my tenure at the Arkansas Attorney General's Office. Additionally, out of an abundance of caution, I have filed disclosure letters in cases that I did not work on but that involve the Arkansas Attorney General's Office or other state agencies I previously represented. I have filed those disclosures in both civil and criminal cases to give parties a reasonable opportunity, if they wish, to ask me to recuse. Chief Justice Baker has received all those disclosures and is aware of my participation in many

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[1] *See* Hearing Before the House Judiciary Committee on January 30, 2025, at 10:03:19 AM-10:03:36 AM, https://arkansashouse.org/watch-live.
[2] *See* Hearing Before the House Judiciary Committee on January 30, 2025, at 10:05:06 AM-10:05:34 AM, https://arkansashouse.org/watch-live.
[3] *See* Hearing Before the House Judiciary Committee on January 30, 2025, at 10:05:06 AM-10:05:34 AM, https://arkansashouse.org/watch-live.

criminal cases—yet unequivocally testified that I have recused from "all our criminal cases" and that "we can't move forward with any criminal cases."

I contacted Chief Justice Baker to ask her to immediately correct her misstatements. She has not done so, and her testimony has now been reported as fact by multiple media outlets. Her statements have misled the public, the General Assembly, and parties before this Court. I am obligated to correct them.

Correcting these misstatements is about more than just setting the record straight. Chief Justice Baker's misstatements have created unnecessary confusion regarding my participation in criminal cases. They threaten to cast doubt on the fairness of the judicial system, and they risk undermining the right of criminal defendants to ask for recusal in cases where they believe it is appropriate. For instance, Chief Justice Baker's statements that I have recused from "all our criminal cases," including post-conviction cases, will undoubtedly come as a surprise to those parties whose matters have been decided with my participation. Those parties may now wonder why I participated in cases that I was recused from. Similarly, parties whose cases have not yet been decided may mistakenly believe that—despite my disclosure letter—it is unnecessary to ask me to recuse in their cases. And Chief Justice Baker's misstatements set the expectation that I will recuse from all future criminal cases. In sum, Chief Justice Baker's testimony undermines basic principles of fairness, raises due process concerns, and risks triggering further litigation.

The confusion created by Chief Justice Baker was entirely unnecessary. Words matter, and a chief justice's words matter more than most. Correcting them will be a time-consuming process, and it will divert resources better spent doing the work that the people of Arkansas have entrusted to the Court. But I am obligated to correct them, and I request that you share this letter with other members of the Committee to notify them as well. I will work with the Clerk of the Supreme Court to ensure that parties understand that I have not recused from "all our criminal cases" and thereby safeguard the rights of all Arkansans.

Respectfully,



Nicholas J. Bronni
Associate Justice

CC: Hon. Brian Evans, Speaker of the House (via email)
All Justices of the Supreme Court (via email)
Kyle Burton, Clerk of the Supreme Court (via email)