

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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In the matter of the Application of  
ARMINTA JEFFRYES and CRISTINA WINSOR,

AFFIRMATION

Index No.: 101836/16

Petitioners,

For a Judgment and Order Pursuant to Article  
78 and Section 3001 of the C.P.L.R.,

-against-

CYRUS R. VANCE, JR., ESQ., the District Attorney of  
New York County; THE CITY OF NEW YORK;  
THE NEW YORK CITY POLICE DEPARTMENT; and  
HON. GUY MITCHELL, a Judge of the  
New York City Criminal Court,

Respondents.

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Martin R. Stolar, an attorney duly admitted to practice in the Courts of the State  
of New York, pursuant to the CPLR, hereby affirms:

1. I am one of the attorneys for Petitioners and submit this Affirmation in  
opposition to Respondents' assertions in their papers that Petitioners have  
unreasonably delayed the underlying criminal proceedings or the application  
brought on by Order to Show Cause now before this Court.
2. In seeking adjournments in the underlying criminal cases, Petitioners were not  
trying to achieve a litigation advantage. Rather, Petitioners merely sought  
relief to address the irreparable harm that would be caused by permitting  
Petitioners' trials to go forward with an improper and illegal prosecutor – the  
NYPD Legal Bureau.

3. On the day after this Article 78 proceeding was filed, undersigned counsel wrote to the Criminal Court Judge then assigned to the case, Hon. Heidi Cesare, to advise the Court that the defendants in the cases before the Court (Petitioners here) would be making a request to adjourn the criminal trials based on the importance of receiving a ruling from this Court on the legality of the NYPD's efforts to act as prosecutors. A copy of this letter is annexed as Exhibit A.
4. Judge Cesare, upon hearing the cases on November 7, 2016, determined that the issue before this Court was important enough to warrant an adjournment, also taking into account that the chief witness in the *Jeffryes* matter, a police captain, was busy and unavailable. Judge Cesare adjourned the case to Jury Part 1 for December 15, 2016, a date which was past the submission date of the pending Article 78.
5. However, Respondents sought and obtained an adjournment of the submission date, a ploy apparently designed to obtain litigation advantage for Respondents by having the criminal cases move forward without a decision on the Article 78.
6. With the criminal cases due to be heard on December 15, 2016, on December 6, 2016, defense counsel wrote to the presiding judge in Jury Part 1, Hon. Melissa A. Crane, to seek a further adjournment due to the pending Article 78. A copy of that letter is annexed as Exhibit B. This request was rejected on or about December 13, 2016.

7. It was only after this request for an adjournment was rejected that the instant Order to Show Cause was submitted to this Court seeking to obtain the adjournment, which had been prospectively denied.
8. There was no delay or lack of diligence in seeking the relief now sought on Petitioners' part. Every effort was made to seek Respondents' consent to adjourn the criminal cases and every effort was made to timely seek adjournments from the Criminal Court Judges, resulting in efforts that were ultimately successful in maintaining the status quo until January 30, 2017.

Dated: New York, NY  
January 24, 2017

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MARTIN R. STOLAR

# EXHIBIT A

# MARTIN R. STOLAR

Attorney at Law

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New York, NY 10007

Tel: (212) 219-1919 • mrslaw37@hotmail.com

November 4, 2016

**BY HAND**

Hon. Heidi Cesare  
Criminal Court of the City of New York  
County of New York  
100 Centre Street  
New York, NY 10013

Re: People v. Armintha Jeffryes

2016SN016966

People v. Cristina Winsor

2016SN016969

2016SN016853

Dear Judge Cesare:

We write in advance of these cases appearing on the Part B calender on November 7, 2016 to advise you that both defendants will be seeking an adjournment of the scheduled trials in order to seek a resolution of whether or not a NY Police Department lawyer may properly appear as the prosecutor.

Yesterday, November 3, 2016, both of these defendants filed an Article 78 and Declaratory Judgement action in New York County Supreme Court seeking to prohibit the NYPD from acting as prosecutors. A copy of the Article 78 Petition and Memorandum of Law in support of it are enclosed with this letter.

Because of the importance of the issue, we request that this issue be resolved in State Supreme Court before any trial commences with the Police acting as prosecutors in this Court.

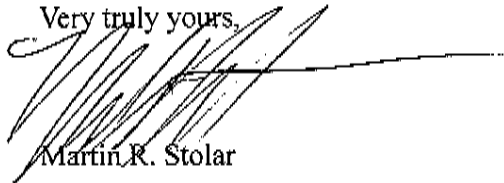
Consent to adjourn the cases on this basis was sought of Katherine Triffon, the NYPD Legal Bureau lawyer purporting to act as prosecutor in these cases but she declined to consent.

We have been advised that the Police Department Captain who is the principal witness in Ms. Jeffryes case will be heavily engaged in security planning for election day and would likely not be available, and on that basis Ms. Triffon consents to an adjournment of Ms. Jeffryes case.

However, we believe that the resolution of the Article 78 proceeding in advance of the trial of these matters would be the wisest use of judicial and human resources and continue to request an adjournment on this basis for both cases.

Thank-you in advance for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Martin R. Stolar', with a long horizontal line extending to the right.

Martin R. Stolar

MRS/s

Encs.

cc: Katherine Triffon, Esq. (via e-mail w/o encs.)

Gideon Orion Oliver< Esq. (via e-mail w/o encs.)

Jonathan Wallace, Esq. (via e-mail w/o encs.)

# EXHIBIT B

# MARTIN R. STOLAR

Attorney at Law

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New York, NY 10007

Tel: (212) 219-1919 • mrslaw37@hotmail.com

December 6, 2016

## BY HAND

Hon. Melissa A. Crane  
Criminal Court of the City of New York  
County of New York  
100 Centre Street  
New York, NY 10013

Re: People v. Arminta Jeffryes  
2016SN016966  
People v. Cristina Winsor  
2016SN016969  
2016SN016853

Dear Judge Crane:

We write in advance of these cases appearing on your calendar on December 15, 2016 to seek a preliminary ruling as to whether an adjournment of the trials of these cases will be granted.

These cases arise out of Black Lives Matters protests and both charge relatively minor "pedestrian" violation offenses for which Summonses were issued. Upon the return date of the summonses, an attorney employed by the NYPD Legal Bureau appeared and represented that she was authorized to act as the prosecutor in these cases pursuant to a Memorandum of Understanding with the NY County District Attorney.

In both cases motions challenging the Police Department's attempt to act as prosecutor were filed and decided against the defendants. Thereafter, both defendants commenced an Article 78 proceeding in New York County Supreme Court challenging the purported delegation of prosecutorial responsibilities as unauthorized as well as unethical. That action is now pending. A copy of the Article 78 papers is enclosed with this letter.



When these cases last appeared in this Court on November 7, Judge Cesare, sitting in Part B, granted a similar request for an adjournment finding that the importance of obtaining a ruling on the Article 78 was sufficient cause to await a determination of whether the NYPD would be allowed to act as prosecutors.

Katherine Triffon, the NYPD Legal Bureau attorney who is acting as prosecutor in this case has indicated to us that she will not consent to an adjournment of the trials of these cases pending a determination in the Article 78 proceeding.

Our efforts to expedite the determination of the Article 78, for which we consented to 10 day adjournment, have now been met with the insistence of Adam Moss, Corporation Counsel appearing for the principal respondents, that additional time is needed and that an application for a further adjournment will be sought (and likely granted over our opposition) when the matter is scheduled to be heard on December 7, 2016.

Your determination as to whether an adjournment of the trials will be granted is requested most expeditiously as we have to consider seeking alternate relief.

Thank-you for your consideration.

Very truly yours,

Martin R. Stolar  
(Counsel for Ms. Jeffryes)  
Gideon Orion Oliver  
(Counsel for Ms. Winsor)

MRS/s

Enc.

Cc: Katherine Triffon, Esq. (via e-mail)

Adam Moss, Esq. (via e-mail)