

POLICE MURDER TRIAL LAWYER OUSTED

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Defense attorney W. Otis Culpepper was ordered off the Cary V. Goins **murder** case Tuesday by 36th (Detroit) District Court Judge John Perry. The judge ruled that a defendant does not have "an absolute right" to the attorney of his choice when it conflicts with the state's right to a fair hearing.

Goins is accused of murdering Detroit **police** officer William Green two weeks ago.

The Wayne County Prosecutor's Office sought Culpepper's removal from the case, saying the state's right to a fair **trial** was endangered because Culpepper also represented an eyewitness to Green's killing, Ernest Files, in another **murder** case.

ASSISTANT PROSECUTOR Timothy Kenny had argued that Files' testimony against Goins could be influenced because Culpepper was Files' attorney.

Culpepper tried to block Perry's ruling Tuesday, saying the potential conflict had been removed earlier in the day when Recorder's Court Judge David Kerwin acquitted Files of first- degree **murder** after a 1-day **trial** heard without a jury.

Perry noted Kerwin's decision but said: "At the very least there is the potential for conflict or the perception of a conflict . . . I feel the potential is too high in this instance . . . Even though the (Files) **trial** is over, the potential for prejudice is still there."

Culpepper announced he would appeal, saying, "They done us wrong."

Perry said the prosecution's request -- which both Culpepper and Kenny said was unprecedented -- was "a rather novel" clash between the Sixth Amendment, which guarantees a defendant the right to an attorney, and the state's right to a fair hearing.

While the defendant's right to an attorney is "guaranteed and of utmost importance," Perry said that the right to representation by a particular attorney "is not absolute . . . The people's right to a fair **trial** is more important . . . of higher importance than a defendant's right to his own counsel."

OUTSIDE COURT, Culpepper said any potential conflict was resolved when Kerwin acquitted Files.

"I don't represent Ernie Files anymore and that's real. He don't owe me anything anymore, even if he ever did," he said.

Culpepper said that in a town such as Detroit, a relatively small group of attorneys handles most criminal cases. If Perry's ruling is allowed to stand, he said, other defense **lawyers** could be ordered off cases because they had previously represented witnesses.

Goins' pre- **trial** examination, to determine if he will stand **trial** , was postponed by Perry so Culpepper could appeal his ruling.

Goins, 17, is accused of killing Green and wounding Green's partner, Eric Byers, when the plainclothes officers tried to question a group of youths on Woodward at Leicester. Goins allegedly is a lieutenant in Young Boys Inc., a city-wide narcotics ring.

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