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8 *Third Party*

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

**MAR 20 2015**

ALAN CARLSON, Clerk of the Court

BY: \_\_\_\_\_ DEPUTY

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

12  
13 **PEOPLE OF THE STATE OF  
CALIFORNIA,**

14 Plaintiff,

15 v.

16  
17 **SCOTT EVANS DEKRAAI,**

18 Defendant.

Case No. 12ZF0128

**ATTORNEY GENERAL'S REQUEST  
FOR IMMEDIATE STAY(FILED  
CONCURRENTLY WITH NOTICE OF  
APPEAL PURSUANT TO PENAL CODE  
§ 1424(A)(1))**

19  
20 On March 12, 2015, the Orange County Superior Court, Judge Thomas Goethals presiding,  
21 granted defendant's motion to recuse the Orange County District Attorney from prosecuting the  
22 penalty phase of this capital case. Concurrent with this request to stay, the Attorney General has  
23 filed a notice of appeal pursuant to Penal Code § 1424(a)(1). Although Penal Code § 1424(a)(1)  
24 mandates that any "order recusing the district attorney shall be stayed pending any review  
25 authorized by this section," the Attorney General also request that the penalty phase trial and any  
26 other proceedings in this case be stayed pending such review.

27 Code of Civil Procedure § 916, provides, in pertinent part:

28 (a) ... [T]he perfecting of an appeal stays proceedings in the trial court upon the

1 judgment or order appealed from or upon the matters embraced therein or affected  
2 thereby, including enforcement of the judgment or order, but the trial court may  
3 proceed upon any other matter embraced in the action and not affected by the  
4 judgment or order.

5 (b) When there is a stay of proceedings other than the enforcement of the judgment,  
6 the trial court shall have jurisdiction of proceedings related to the enforcement of the  
7 judgment as well as any other matter embraced in the action and not affected by the  
8 judgment or order appealed from.

9 The taking of an appeal "stays all further proceedings in the court below upon the judgment  
10 or order appealed from, or upon the matters embraced therein." (*People v. Murphy* (1969) 70  
11 Cal.2d 109, 116, citing former Code of Civil Procedure § 946.) This rule applies to criminal  
12 cases. (*Id.* at p. 116.) "If the moving party desires that the trial be stayed pending appeal, the  
13 party may first ask the trial court in its discretion to continue or stay the underlying proceedings  
14 until the appeal is decided." (*Reed v. Superior Court* (2001) 92 Cal.App.4th 448, 456.) The  
15 Attorney General hereby makes that request. Proceeding to a penalty phase trial in this case  
16 while the order recusing the Orange County District Attorney is stayed will necessarily require  
17 the trial to be conducted by the Orange County District Attorney. Proceeding to trial in such a  
18 manner could, depending on the final resolution after the review process, be a wasteful  
19 expenditure of judicial and prosecutorial resources and could delay the ultimate disposition of this  
20 case.

21 Therefore, the Attorney General respectfully requests this court issue an immediate stay of  
22 the trial and all other proceedings in this case while the matter is pending at the Court of Appeal.

23 Dated: March 20, 2015

24 Respectfully Submitted,

25 KAMALA D. HARRIS  
26 Attorney General of California  
27 HOLLY D. WILKENS  
28 Supervising Deputy Attorney General



THEODORE M. CROPLEY  
Deputy Attorney General  
*Third Party*