

# THE JAILBIRDS OF HARAHAN

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For more than two years, the Mayor and the City of Harahan, La. have conducted a relentless campaign to penalize Andrew and Carol Stamm for conditions allegedly caused by the Purple Martins (*Progne subis*) which return annually from South America to reestablish their long-standing, but seasonal and lawful, breeding colony in the Stamms' backyard. Each year, Purple Martins return to occupy the Stamms' nesting gourds which the Stamms have maintained at their home for more than thirty-six (36) years in accordance with conservation practices endorsed by the U.S. Fish & Wildlife Service, the Louisiana Department of Wildlife & Fisheries, and leading ornithological organizations. There were no complaints about the birds until Stephen Peyronnin, now a neighbor, recently moved in across the street.

## The First Prosecution

Although most of the Stamms' neighbors love the birds, based upon the written complaints of Stephen Peyronnin and a handful of disgruntled neighbors he contacted, sent to the City Council in May 2023, the City previously charged the Stamms for an alleged nuisance theory in, *City of Harahan v. Stamm*, Case No. 2532. The complainants had alleged that droppings from Purple Martins are landing on their cars and outdoor property but have presented no scientific proof to support their claims. So, the Stamms were arraigned for the criminal misdemeanor of maintaining a public nuisance. A trial then took place before the existing City Magistrate in the Regulatory Section of the Mayor's Court.

The Magistrate concluded that the Purple Martins were a nuisance, but oddly, after issuing his decision he concluded that he did not have jurisdiction to hear the case. This made little sense. He then transferred the case back to the City Council which originally had the case, in accordance with the law in effect at that time. The Council then changed the law to provide for new procedures as well as jurisdiction before the Mayor's Court. The existing Magistrate then recused himself from further proceedings because he had already issued a formal opinion in the case and as a result might appear biased if he proceeded with a new trial on the same issue.

### **The Second Prosecution**

In August 2024, the Stamms were once again summoned to the Mayor's Court for an arraignment where they again pleaded not guilty. The City then appointed a Special Magistrate and a Special Prosecutor to pursue charges against the Stamms. Oddly, these paid appointments would eventually cost the City over \$20,000, at a time when the Fox News/channel 8 was reporting that the City of Harahan was broke. In response to the renewed charges, the Stamms filed numerous pre-trial Motions seeking a dismissal of the case, including a Motion to Quash or Dismiss arguing that the new law was an unconstitutional ex post facto law since it was enacted after the Stamms had already been charged. On March 24, 2025, the newly appointed Special Magistrate Stephen Petit agreed and dismissed the case with prejudice, with the obvious finding that the City had unlawfully sought to charge the Stamms under an ex post facto amendment to Harahan City Ordinance Section 10-8.

### **The Third Prosecution**

Undeterred by the adverse ruling, on June 4, 2025, less than three months after that dismissal, the Defendants were served by the City with a new Violation Notice alleging that "multiple Purple Martin houses in rear yard" were "causing a nuisance to abutting neighbors." The notice ordered the Stamms to "relocate bird houses from rear yard ... to a remote location" by June 15, 2025. This was odd since neither the Mayor nor his Court has the authority to issue injunctive relief ordering citizens to do anything. Later that month, a subsequent Inspection Notice on June 13, 2025, directed the Defendants to comply with Section 10-8(b), which governs the sanitary removal and disposal of animal feces. However, the Notice failed to identify any factual basis for the alleged violation or articulate any specific abatement procedure.

### **Abatement of the Nuisance**

Of particular concern is the fact that since the inception of this City's prosecution of Defendants for maintaining the nesting gourds, the Defendants have made significant, good faith efforts to abate any alleged nuisance. Section 10-8(b) provides that nuisances "by defecation" are to be remedied by removal of all feces and disposal in a sanitary manner. To that end, the Stamms had arranged for and offered bi-weekly professional pressure washing of the affected areas and offered to purchase car-wash memberships for each neighboring resident during the Purple Martin's Louisiana migratory season. These lawful, sanitary measures directly addressed the only abatement duty imposed by Section 10-8(b) and, in fact, offered far beyond what the Ordinance requires.

Still, the disgruntled neighbors refused these reasonable abatement offers and instead demanded that the Defendants remove or relocate all or a prohibitive number of nesting structures-an act that would destroy active nests, violate the federal Migratory Bird Treaty Act which bars occupied nest disturbance, eliminate nesting sites for future returning Purple Martins, and, contravene the City's own self-imposed "Bird Sanctuary" moniker officially recognized by Harahan City Ordinance. Rather than enforce Section 10-8(b) as written, or acknowledge the Defendants' proposed Abatement and compliance, the City once again chose to pursue criminal prosecution, apparently siding with the complainants, by demanding removal and relocation of the structures as the only permissible abatement measure.

Significantly, the City did not even attempt to follow the mandatory bird nuisance abatement procedures prescribed by City Ordinance Section 10-5, which involve meeting with the Audubon Society and local Garden Clubs to devise a fair solution. The City, instead, simply sided with the complainants, which was not unexpected, since the case is being tried in the Mayor's Court and the Mayor has already stated on the record that he would have killed the birds by feeding them Alka-Seltzer, if he had the opportunity.

### **More Recusals**

So, the Stamms appeared once again for their arraignment in August of 2025, at which time they were advised that both the City Attorney and the presiding Magistrate had recused themselves as they felt their association with the City Council and/or the facts of the case might create an appearance of impropriety. The Stamms were then summoned once again on October 9, 2025, for yet another arraignment, but this time before the same Special counsel and Special Magistrate as in the second prosecution, and once again for the same alleged nuisance offense.

Thereafter, the Stamms once again filed more Motions and Exceptions seeking the dismissal of the charges, including a Motion to Quash or dismiss based upon double jeopardy since they were being tried a third time for the same offence. These were/are all set to be heard at once on November 13, 2025. A trial date was also set to follow shortly thereafter, on December 17, 2025, as the Special Magistrate had made clear to the Stamms that the case was to be decided well before the Purple Martins return in early February. At that time, based upon the what appears to date to be the inevitable trajectory of this case, the Purple Martins will find they no longer have homes in which to nest. If that occurs it may essentially be a death sentence waiting for them at the end of their long journey from South America.

### **Special Magistrate and the Mayor**

Meanwhile, the Stamms just learned that the Special Magistrate did not disclose the fact that he has previously represented the Mayor and/or the City in multiple matters. The matters include the Mayor's long and involved divorce proceeding among the following matters:

**1. Tina Miceli (former Mayor of Harahan) vs. Tim Baudier** (24th JDC Case No. 789-112) Category: Injunction, Expropriation, Habeas Corpus

**Stephen M. Petit - Attorney of record for Tim Baudier**

Matter dismissed 12/9/2018

**2. Timothy L Baudier St vs Kristen Quinlan Baudier** (24th JDC Case No. 663-427)

**Stephen M. Petit - Attorney of record for Tim Baudier** on 11/18/2010 when Baudier files for custody modification

A Final Judgment was entered on Jan 9, 2013

**3. Mary Erler versus City of Harahan** (24th JDC Case No. 757-888)

On March 12, 2019, Stephen M. Petit enrolls as Counsel of Record as City Attorney for the City of Harahan.

Clearly, the Special Magistrate's long association and employment with the Mayor created an obvious appearance of impropriety if he were to continue to preside over these proceedings. As a result, the Stamms have moved that he should be recused from presiding over any further proceedings involving the Mayor's relentless war upon the Purple Martins and the Stamms.

All of the pre-trial Motions filed on behalf of the Stamms including the recusal Motion were set for hearing before the Special Magistrate on Thursday, November 13, 2025, at 5pm. The Special Magistrate refused to recuse himself, claiming the Mayor had no influence over the proceedings and could have presided himself, so it made no difference who presided which made no sense, given the Mayor's obvious bias. The Magistrate then denied all the Stamms' Motions, including the Motion based upon double jeopardy. The Stamms will now file a Petition for a Writ of Mandamus in the 24th JDC court in Gretna, seeking an order requiring the recusal Motion to be heard by a new judge. If granted all the Motions will be reheard.