

[http://www.theadvocate.com/baton\\_rouge/news/courts/article\\_f20d6dce-733e-11e8-8591-57d2d39bcd8f.html](http://www.theadvocate.com/baton_rouge/news/courts/article_f20d6dce-733e-11e8-8591-57d2d39bcd8f.html)

# Case against former warden Nate Cain and ex-wife in alleged ripoff of Avoyelles prison will move forward

BY GRACE TOOHEY | GTOOHEY@THEADVOCATE.COM JUN 18, 2018 - 7:04 PM



Photo provided by Facebook -- Nate and Tonia Cain ORG XMIT: BAT1608051830473782  
Lau, Maya

---

Grace Toohey

The criminal case against former prison warden Nate Cain and his ex-wife will move forward after a federal judge denied their request to suppress evidence key to their indictments for improper purchases on the Avoyelles prison's dime.

U.S. District Judge Dee Drell of the Western District of Louisiana ruled last week that the now-estranged couple did not have standing to contest the Office of the Inspector General's 2016 search of their former home, which will allow the case to progress toward trial.

Nate Cain, the eldest son of legendary jailer Burl Cain, and his ex-wife, Tonia Bandy, who is now using her maiden name, were indicted in early 2017 for wire fraud over purchases allegedly made with state credit cards during their tenures at Avoyelles Correctional Center in Cottonport. The prison is now known as Raymond Laborde Correctional Center.

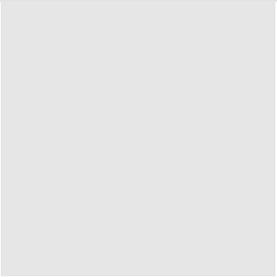
The couple had asked Drell in February to throw out the evidence against them that had been obtained through a search warrant obtained by the Louisiana Office of the Inspector General, claiming the state agency does not have the legal authority to execute search warrants.

Drell declined to rule on that legal issue in his June 12 decision, instead focusing on how the couple no longer had a "reasonable expectation of privacy in the house," which was searched. The state-owned house is on prison property.

Nate Cain resigned as warden of the Avoyelles Correctional Center in May 2016 amid multiple investigations and newspaper articles exploring nepotism and possible misconduct, some of a potentially criminal nature. Bandy also resigned as the prison's business manager that month.

Upon his resignation, the couple were no longer permitted to live in the home. While they did physically leave, they did not fully move out all their items immediately, their lawyer John McLindon said. A criminal investigator with the Inspector General's Office searched the home in early June, court records show.

OIG agents seized 52 items in the raid of the Cain's home, with about half of the seized items being firearms or gun parts. It's not clear how many of those items are relevant to the charges against Cain and Bandy in this case.



### **Nate Cain, estranged wife indicted on federal charges in alleged ripoff of Avoyelles prison**

"Once Warden Cain resigned, Defendants no longer had the right to live in the Warden's house, so their possessory right was lost. Defendants apparently left some movables in the house for two weeks, despite notice from the DOC to remove their personal belongings. Those items were apparently abandoned," wrote U.S. Magistrate Judge Joseph Perez-Montes in a Report and Recommendation for Dell. "Without a possessory interest in the house, Defendants could neither exclude others from the house nor take precautions to maintain the privacy of the property."

Louisiana Inspector General Stephen Street was pleased with the ruling.

"This motion did not have a shred of legal or factual merit and couldn't even get past a basic threshold of standing," Street said. "We remain confident in OIG's legal authority and the professional manner in which the investigation was conducted."

McLindon said he did object to the legal argument claiming the Cain's did not have standing, but the judge denied his objection. McLindon said they will wait to see what happens with the charges against his clients before they decide whether to appeal.

"Even though, Mr. and Mrs. Cain had partially vacated the premises, they still had many personal items there, and were given deadlines (beyond the date of the search warrant) to get their items out," McLindon wrote in the objection.

He said he was disappointed the judge didn't address the question of whether or not the Inspector General has authority for search warrants, and calling this the "perfect case" to rule on the issue.

**Former Louisiana prison warden Nate Cain claims evidence leading indictment was illegally obtained**

"The question needs to be answered," McLindon said, "and somebody's going to have to make a ruling on it. The statute is poorly drafted."

While the Louisiana statute governing the Office of the Inspector General — the agency charged with investigating fraud and corruption at state agencies — does not specifically mention the authority to issue search warrants, the law does designate OIG as a "law enforcement agency and conferred all investigative power and privileges."

Street said the phrase "all investigative power" includes search warrants.

"It defies common sense that ALL wouldn't mean all," Street said.

A trial date has not been set.

---

**FOLLOW GRACE TOOHEY ON TWITTER, @GRACE\_2E.**