

IN THE SUPREME COURT OF THE STATE OF MONTANA

PR 26-0001

STATE OF MONTANA,

Plaintiff,

v.

O R D E R

THOMAS BOLICH,

Defendant.

Defendant Thomas Bolich has filed a motion through Defense Counsel Monica Tranel to disqualify District Court Judge John Larson from presiding over his pending criminal prosecution in the Fourth Judicial District Court, Missoula County, Cause No. DC-25-473. The motion was filed on March 24 and the matter is currently scheduled for jury trial on April 24. A motion to disqualify a judge for cause must be filed “more than thirty” days before a trial or hearing in the case. Section 3-1-805(1)(a), MCA. The instant motion barely made it under the wire.

The motion alleges Judge Larson has exhibited bias against Mr. Bolich’s attorney Monica Tranel, not against Mr. Bolich himself. The motion and affidavit allege the Judge has taken note of an allegation against Tranel in another case that she used generative artificial intelligence to assist in her court filings in another matter, without fully disclosing that fact pursuant to the local rule. Bolich asserts Judge Larson has now exhibited bias toward Tranel by rejecting several of her filings, including important pre-trial motions, on the grounds they appear consistent with use of generative artificial intelligence in the other case. Bolich claims he cannot receive a fair trial based on Judge Larson’s demonstration or at least appearance of bias against his attorney, due to the Judge’s “personal bias or prejudice concerning a party or a party’s lawyer.” M.R.Jud.C. 2.12(A)(1).

In reviewing this motion, two issues immediately stand out. First, the basis for the motion to disqualify concerns Judge Larson’s rulings on motions filed in the case, which can be and ordinarily should be best addressed on appeal. Second, the motion and affidavit do not distinguish between a *personal* bias against attorney Tranel, versus a professional skepticism based upon her representation of a different client in a different case. We noted on two occasions when addressing a similar claim, “Knowledge about matters in a proceeding that has been obtained by a judge within the proceeding itself *or within another legal proceeding* is permissible and does not call for disqualification.” *State v. Strang*, 2017 MT 217, ¶ 26, 388 Mont. 428, 435, 401 P.3d 690, 697 (citing Charles Gardner Geyh, et. al., *Judicial Conduct and Ethics* § 4.10, 4-42 (5th ed. 2013))(emphasis supplied in *Strang*); *State v. Flesch*, 2024 MT 160, ¶¶ 27-28, 417 Mont. 333, 553 P.3d 357.

The affidavit and motion make it clear Judge Larson based his rejection of Tranel’s filings on her conduct in another court proceeding, of which he took judicial notice. There is no allegation of *personal* bias against Tranel. To the extent it was an error to reject Bolich’s motions out of hand, that can be raised on appeal or by the District Court’s ruling on the merits of Bolich’s new motions, which he states have been filed anew.

Finally, it bears noting the true nature of Bolich’s motion appears to be a complaint that Judge Larson has demonstrated animosity toward attorney Tranel. And the concern is that the client’s rights and interests will be affected by this animosity. *See Disqualification of Trial Judge for Cause, § 56 Appearance of Animosity Toward Counsel*, 50 Am. Jur. Proof of Facts 3d 449 (Originally published in 1999). In that regard, the undersigned finds Tranel has “not submitted the type of evidence necessary to overcome the presumption of fairness and impartiality accorded to all judges.” *In re Disqualification of O'Donnell*, 28 N.E.3d 59, 61 (Ohio 2014).

The motion and affidavit have failed to allege facts showing a personal bias or prejudice against Bolich or his attorney, and they are based solely on rulings in the district court which can be addressed on appeal. Section 3-1-805(1)(b), MCA.

IT IS THEREFORE ORDERED the motion to disqualify Judge Larson is VOID and thereby DENIED.

The Clerk is directed to provide copies of this Order to the Clerk of the District Court of Missoula County for notification to all parties in Cause No. DC-25-473, and to the Honorable John Larson.