

CRIMINAL DOCKET NO. 37596

VINCENT SIMMONS

12TH JUDICIAL DISTRICT COURT

VERSUS

PARISH OF AVOYELLES

DARREL VANNOY, Warden
Louisiana State Penitentiary

STATE OF LOUISIANA

REASONS FOR RULING

This cause was before the Court on April 20, 2021 pursuant to a Motion to Recuse the Honorable Kerry Spruill filed on behalf of Vincent Simmons on March 23, 2021. The Motion alleges that based on Judge Spruill's prior attorney/client relationship with a potential witness Kerri Laborde, and a prior business relationship with potential witness Keith Laborde, he should be recused to avoid the appearance of impropriety. Simmons alleges that the provisions of Canon 3 of the Code of Judicial Ethics and Louisiana Code of Civil Procedure Article 151 mandate Recusal of Judge Spruill.

Canon 3(C) of the Code of Judicial Conduct provides that a Judge should disqualify himself or herself in a proceeding in which the Judge's impartiality might reasonably be questioned and shall disqualify himself or herself in a proceeding in which this disqualification is required by law or applicable Supreme Court rule. In all other instances, a Judge should not Recuse his or herself.

The Recusal of Judges is also provided for in Code of Criminal Procedure Article 671 et. seq. The mandatory grounds in Article 671A(6) consist of the only potential mandatory law requiring Recusation.

In preparation for this opinion this Court has reviewed portions of the record of this proceeding, the testimony of Judge Kerry Spruill, Memorandum of counsel, argument of counsel, and this Court has performed an independent review of applicable law and jurisprudence. The State of Louisiana did not take a position on the Motion for Recusal.

COPY(S) SENT: 5/5/21
BY: SMC
TO: Charles Riddle III¹
Anthony F. Sataro
Malcolm Lavardain; Justin C. Bonus; Honorable Kerry L. Spruill

FILED: May 5, 2021
BY: Sheron M. Cheveret
Deputy, Clerk of Court

Counsel for Simmons indicated that both Keith Laborde and Kerri Laborde are potential witnesses in the pending Application for Post-Conviction Relief filed on behalf of Vincent Simmons. Counsel made note of the obvious fact that Judge Spruill may be called upon to issue Rulings based on the testimony of both Keith Laborde and Kerri Laborde.

In his testimony, Judge Spruill confirmed that in Civil Suit Number 2021-8697 entitled, "Keith John Laborde v. Kerri Lee Laborde," a Voluntary Order of Transfer was made in this Protective Order proceeding "*to avoid the appearance of impropriety and bias and pursuant to the provisions of Canon 3 of the Judicial Ethics and Louisiana Code of Civil Procedure Article 151 and its provisions for recusation...*" The Protective Order proceeding brought by Keith Laborde against his daughter was heard on April 19, 2021 in Division B of the Twelfth Judicial District Court.

During his testimony Judge Kerry Spruill also confirmed that many years ago he represented Kerri Laborde in a custody proceeding. Judge Spruill also confirmed that he knew Keith Laborde, father of Kerri Laborde for more than twenty years and in fact, Keith Laborde had worked for him as a carpenter through contractor, Frank Moreau.

During his testimony Judge Spruill confirmed that his Recusal in the Protective Order probably would remove all appearance of impropriety in that proceeding and also confirmed that he could never divulge any confidential information that he received as attorney for Kerri Laborde in any proceeding whatsoever. Judge Spruill testified that he felt obligated to disclose the prior attorney-client relationship and opined that his Recusal in that case was imperative to remove all appearance of impropriety.

The specifics of how these past relationships equated to “an appearance of impropriety” in the Protective Order proceeding were not explained.

Judge Spruill did testify that he felt it was imperative to remove all appearance of impropriety, however, there was no testimony elicited as to what the alleged appearance of impropriety was. Simply knowing an individual and/or having the individual work for you at one time and/or having represented a party at one time does not consist of an automatic ground for recusation. Judge Spruill clearly stated that it was imperative in this case, however, and once again, no evidence was elicited as to what the impropriety was concerning.

In the Protective Order proceeding, Keith Laborde alleged that Kerri Laobrde committed acts of harassment and defamation, along with past acts of violence and/or attempted violence. These allegations clearly are not related to Judge Spruill’s representation of Kerri Laborde in a custody proceeding more than thirteen years ago. How this prior representation and past relationships constituted an “appearance of impropriety” in presiding over the Protective Order proceeding remains a mystery. However, Judge Spruill signed an ORDER OF TRANSFER which was accepted by this Court.

An appearance of impropriety occurs when reasonable minds with knowledge of all of the relevant circumstances disclosed by a reasonable inquiry would conclude that the Judge’s honesty, integrity, impartiality, temperament, or fitness to serve as Judge is impaired.

As Judges in a rural community, it is quite normal for a Trial Judge to personally know litigants and/or witnesses. If simply knowing someone or having represented someone in a prior matter would require Recusation, then and in that event this Court estimates that at least one-half of the cases pending in Division B

of the Twelfth Judicial District Court would require this Judge to Recuse. However, on rare occasions these past relationships do require Recusation.

As stated in *State v. Parker*, 692 So. 2d 599, in order to Recuse a Trial Judge on the basis of bias or prejudice, which is similar to impartiality, the claim must be substantial in nature and based upon more than conclusory allegations. Judge Spruill was obviously of the opinion that any such claim, if made, would be substantial in nature.

It is obvious that Judge Spruill was of the opinion that reasonable minds with knowledge of his prior "*long-standing relationship as attorney with defendant in these proceedings, namely Kerri Lea Laborde, involving family matters of the party litigants...*" (from Order for transfer of case to Division B) would conclude that his honesty, integrity, impartiality, temperament, or fitness to serve as presiding Judge in that Protective Order proceeding would be impaired.

The question now is simple - - - if Judge Spruill is impaired from presiding over a matter based on a relationship with the PARTIES to the litigation, does this impairment also apply to proceedings wherein the parties with whom Judge Spruill had the prior relationship are merely witnesses? The answer to this question is a resounding NO. However, the fact that the Protective Order proceeding in which Judge Spruill entered a Recusal was based upon, in part, allegations which obviously reflect upon potential testimony by these individuals in the SIMMONS Post-Conviction proceeding, the answer to the question is YES.

Therefore, if Judge Spruill was impaired from a proceeding concerning partial or total evidence about potential evidence to be presented concerning the SIMMONS proceeding, he must also be Recused from the SIMMONS proceeding.

Accordingly, the Motion to Recuse Judge Kerry Spruill is **GRANTED**.

The opinion issued herein is being rendered after many hours of deliberation and some loss of sleep. In fact, four prior drafts of this opinion were prepared and edited all with a finding that the Motion to Recuse be **DENIED**. However, upon further reflection it is obvious that if Judge Spruill cannot preside over a proceeding involving Keith Laborde and Kerri Laborde that includes evidence related to the Simmons proceeding, then he cannot preside over the Simmons proceeding if the Laborde's are witnesses.

The granting of the Motion to Recuse Judge Spruill therefore results, pursuant to applicable law with a transfer of this proceeding to Division B of the Twelfth Judicial District Court.

There remains pending a Motion to Recuse the District Attorney. The Motion will be heard in Division B of the Twelfth Judicial District Court on May 21, 2021 at 9:00 a.m. Prior to the Hearing, and on the record, this Court will discuss other potential Recusal issues. If the date herein assigned presents a conflict for counsel, the Court is to be notified of such so that a date convenient to all will be assigned.

Marksville, Louisiana, on this 5TH day of MAY, 2021.


WILLIAM J. BENNETT
12TH JUDICIAL DISTRICT COURT, JUDGE
DIVISION B

This certifies that the foregoing
is a true copy of the original signed
and filed this 5TH day of May

2021
Sharon H. Cheever
By, Clerk 12th Judicial District Court