

IN THE COUNTY COURT OF THE SEVENTH JUDICIAL CIRCUIT IN AND FOR ST. JOHNS COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

vs.

QUINN HANNA GRAY,

Defendant.

CASE NUMBER: 09-001474CFMA

GENEVE STRICKLAND  
CLERK OF CIRCUIT COURT  
ST. JOHNS COUNTY

2009 NOV -5 P 4: 20

FILED

MOTION FOR DISQUALIFICATION OF JUDGE

COMES NOW the Defendant, QUINN HANNA GRAY, by and through her undersigned counsel of record, and moves pursuant to Fla. Stat. §38.10 to Recuse/ Disqualify this Honorable Court from further involvement in this case. The Defendant does not believe that she can receive a fair and impartial trial from this Court and further that this Court has a potentially significant conflict of interest. In support of this motion, the Defendant alleges and states:

1. The current allegations/ charges pending against Mrs. Gray relate to alleged acts of threats/ extortion against her husband, Reid Allen Gray, contrary to Florida Statute 836.05.
2. At the time of her original arrest in this case, Mrs. Gray's bond was set in the amount of \$1,000,000. It was later reduced to \$200,000 with a number of stringent conditions. The bail for her alleged co-conspirator, Jasmin Osmanovic, was originally set at \$100,000 (10 times less than Mrs. Gray's) and remains in that amount and does not contain the same stringent conditions as applied to Mrs. Gray. The arrest affidavit filed in Mrs. Gray's case did not contain any information as to her financial background and ability to post a bail. Mrs. Gray now believes

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that her bond was set so high due to the Court's previous personal knowledge of her and her husband's financial abilities and other "outside of the record" factors, which are as set forth below.

3. The facts/ factors that Mrs. Gray swears and affirms are true and correct and which indicate this Court's personal bias/ prejudice against her and/ or the certain matters that are within the self interests of the Court and individuals related to her within the third degree, are as follows:

a. The children of Mrs. Gray and this Court have attended the same private school together for approximately 3 years. That school shall for now remain unnamed in this motion in order to attempt to protect the confidentiality of minor children not involved in the present litigation. If necessary, Mrs. Gray is able to produce official school records to support this claim. Mrs. Gray asserts that this fact has been well known to this Court during the entire pendency of this matter.

b. Mrs. Gray's and the Court's children know each other and have played together socially at school. At one point, one of their offspring were in the class together. Presently, the children interact after school on an almost daily basis. Mrs. Gray asserts that this fact is well known to this Court. In fact, Mrs. Gray and this Court have had numerous casual social discussions over the course of various school functions and activities.

c. Mrs. Gray and her child have attended a number of the same birthday parties for schoolmates as the child of this Court. During these birthday parties Mrs. Gray and this Court have had casual social interaction/ discussions. On one such occasion, Mrs. Gray and her child actually attended a birthday party at the home of and being hosted by this Court. Mrs. Gray

personally interacted with this Court during that party. Mrs. Gray's recollection of that event was that this Court was a very personable and gracious host.

d. One of Mrs. Gray's daughters is extremely close friends to the child of a next-door neighbor of this Court. Mrs. Gray and this neighbor have had numerous social interactions and personal discussions. Mrs. Gray asserts that this Court is aware of such relationship.

4. Mrs. Gray asserts that this Court, due to the prior above-described personal relationships and interactions, possesses private personal extra-judicial knowledge of her, her behavior and that of her husband, her interactions with her husband, her interactions with her children and others derived totally independent of and apart from the current litigation. Mrs. Gray asserts that as a result of this previous contact/ relationship this Court has already formed a personal opinion concerning Mrs. Gray. It is Mrs. Gray's serious concern that at least in part as a result of the previous contacts this Court has formed an opinion concerning the merits of the current allegations against her.

5. One of the bail conditions set by this Court for Mrs. Gray restricted her travel to the County in which her children and this Court's children attend school. Mrs. Gray does not know but has grave concerns that this condition may have been set to keep Mrs. Gray away from the school. Mrs. Gray does not know what affect this added personal/ parental factor may have on this Court's decisions in this case. Mrs. Gray submits that if this Court believes that probable cause exists for the current charges against her, than she has very real concerns that this Court (quite naturally) would react as a mother as opposed to a neutral and detached judicial officer. Mrs. Gray does not believe she can receive a fair and impartial trial from this Court.

6. Mrs. Gray believes that this Court will subconsciously (hopefully not intentionally) factor her prior knowledge of Mrs. Gray and her family in to her judicial decisions. This Court may also react to Mrs. Gray (again subconsciously) in a fashion that may not be in the best interests of Mrs. Gray but rather in the best interests of this Court and her children. Questions/ issues that cause Mrs. Gray grave concern are in part: Will this Court rule in such a fashion to ensure that Mrs. Gray does not have the opportunity to interact with the Court and her family at school related functions? If there is such contact at school functions during the pendency of this matter, will this contact and Mrs. Gray's behavior and that of her children be factored in to future decisions by the Court? What effect on her case, and if any, will there be as a result of the interactions of Mrs. Gray's children and the offspring of this Court? Does Mrs. Gray now have to instruct her children to avoid the offspring of this Court?

Naturally, the instant case has and will continue to have a profound effect on Mrs. Gray and her children. The children's school is a consistent and stable environment necessary to assist them through these very difficult times. Mrs. Gray beseeches this Court to not jeopardize this safe haven for her children during the pendency of this action.

7. The facts and circumstances underlying the present motion were only able to be fully broached, reviewed and developed with Mrs. Gray initially on Wednesday, October 28, 2009, and finally on Sunday, November 1, 2009. Counsel for Mrs. Gray submits that good cause exists to begin the running of any "ten-day period" no earlier than October 28, 2009. As this Court is acutely aware, it set a condition of Mrs. Gray's bond that she received immediate and intensive inpatient mental health treatment. Apparently this Court had grave concerns over the mental health of Mrs. Gray. Counsel for Mrs. Gray (Mark Miller, Esq.) was actually required by

this Court to personally deliver Mrs. Gray to the treatment facility located in St. Simons Island, Georgia. Since delivery to that facility Mrs. Gray has undergone extensive treatment and therapy and has received appropriate medications in order to treat her. According to the medical experts, Mrs. Gray is beginning to make progress and is extremely close to being moved on to her next phase of treatment. At the time of the instant offense, her initial appearance before this Court and her delivery to the mental health facility located in St. Simons Island, Georgia Mrs. Gray has been diagnosed as having an acute Bipolar Disorder. Mrs. Gray will have this condition the rest of her life. Fortunately, it now has been recognized and is subject to treatment.

On Wednesday, October 28, 2009, counsel for Mrs. Gray were able for the first time to really sit down with her in a stable environment, with the benefit of the diagnosis and permission of her treating medical personnel, where she was emotionally capable to discuss her case in detail with her counsel and the evidence against her.

On Sunday, November 1, 2009, the undersigned counsel again met with Mrs. Gray in St. Simons Island, Georgia. At this time, for the first time to undersigned counsel, Mrs. Gray was able to clearly and completely recount her interactions with this Court, the interactions of her children with the children of this Court and to discuss other social situations in which her family and the family of this Court interacted. Mrs. Gray was for the first time able to clearly and effectively communicate with counsel concerning the legal intricacies/ implications of the filing of the present motion. As a result of this two-hour meeting, Mrs. Gray expressed deep concerns to undersigned counsel as to why this Court was handling her case.

8. The Canons of Judicial Conduct provide in Canon 3E, that:
- (1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:
    - (a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding;
    - (b) the judge served as a lawyer or was the lower court judge in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge has been a material witness concerning it;
    - (c) the judge knows that he or she individually or as a fiduciary, or the judge's spouse, parent, or child wherever residing, or any other member of the judge's family residing in the judge's household has an economic interest in the subject matter in controversy or in a party to the proceeding or has any other more than de minimis interest that could be substantially affected by the proceeding;
    - (d) the judge or the judge's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:
      - (i) is a party to the proceeding, or an officer, director, or trustee of a party;
      - (ii) is acting as a lawyer in the proceeding;
      - (iii) is known by the judge to have a more than de minimus interest that could be substantially affected by the proceeding;
      - (iv) is to the judge's knowledge likely to be a material witness in the proceeding;
    - (e) the judge's spouse or a person within the third degree of relationship to the judge participated as a lower court judge in a decision to be reviewed by the judge.
    - (f) the judge, while a judge or a candidate for judicial office, has made a public statement that commits, or appears to commit, the judge with respect to:

- (i) parties or classes of parties in the proceeding;
  - (ii) an issue in the proceeding; or
  - (iii) the controversy in the proceeding.
- (Emphasis added.)

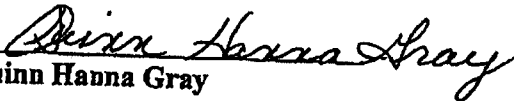
The comment to Canon 3E provides that "a judge is disqualified whatever the judges impartiality might reasonably be questioned, regardless of whether any of the specific rules in Section 3E(i) apply."

9. A motion for recusal is to be viewed from the perspective of the Defendant, not the judge. *Suarez v. Dugger*, 527 So.2d 350 (Fla. 1988). In examining the sufficiency of the motion, the judge must determine both its technical sufficiency and whether the facts alleged (which must be taken as true) would prompt a reasonably prudent person to fear that he/ she would not get a fair and impartial trial. *Thunderbird, LTD v. Great American Insurance Company*, 566 So.2d 1296, 1304 (Fla. 1<sup>st</sup> DCA 1990).

10. Undersigned counsel for the Defendant represents and certifies that this motion is being made in good faith and not for purposes of vexation or delay. The undersigned further certifies that he has consulted with the Defendant and she has represented to the undersigned counsel and believes the allegations, concerns and conclusions herein to be true and correct.

WHEREFORE, the Defendant respectfully requests that this Court recuse itself from any further proceedings in this case, as set forth above in the Defendant's Motion for Disqualification of Judge.

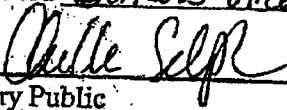
I swear under the penalties of perjury that the foregoing facts above are true.

  
Quinn Hanna Gray

STATE OF:  
COUNTY OF:

BEFORE ME, personally appeared, Quinn Hanna Gray, who, after being duly sworn according to law, executed the foregoing instrument, and after being placed under oath acknowledged to and before me that he executed said instrument for the purpose therein expressed and the information in the foregoing instrument is true and correct.

Sworn to and subscribed before me this 5<sup>th</sup> day of November, 2009, who has produced Drivers License as identification.

  
\_\_\_\_\_

Notary Public


My Commission Expires: \_\_\_\_\_

CHELLE SELPH  
Notary Public, Glynn County, Georgia  
My Commission Expires March 5, 2010

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy hereof has been furnished by U.S. Mail and facsimile to Assistant State Attorney Christopher A. France, Office of the State Attorney, 4010 Lewis Speedway, Room 252, St. Augustine, FL 32084, and to the Honorable Wendy Berger, Judge by filing with the clerk of the court and by facsimile this 5<sup>th</sup> day of November, 2009. I copy will be hand delivered in open court to the Court and the State of Florida on November 6, 2009.

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