
IN THE MATTER OF:
DOROTHEA BATISTE
Circuit Judge of Jefferson County,
Tenth Judicial Circuit of Alabama



ORDER

The Judicial Inquiry Commission (the "JIC"), and Judge Dorothea Batiste ("Judge Batiste")--(collectively "the Parties")--appeared on June 14, 2013, for a status conference in the above-referenced matter; this matter is set for a hearing on the disposition of the complaint (hereinafter referred to as "the trial") on July 29, 2013. The following order details the decisions and agreements reached during that status conference:

Document Exchange

By agreement of the Parties, each party will have the opportunity to submit documents and exhibits to the other party in an effort to obtain a stipulation on the authenticity of those documents or exhibits. The parties are not, however, later precluded from offering at the trial documents or exhibits not exchanged, and, further, a stipulation to authenticity does not waive any other objection regarding the admissibility of the document or exhibit.

As agreed by the Parties, the JIC shall submit its documents to Judge Batiste for consideration no later than July 1, 2013; Judge Batiste, in turn, shall submit her documents to the JIC no later than 10 days after the JIC submits its documents, or July 10, 2013, whichever comes first. All objections to the authenticity of the exchanged documents must be raised no later than July 15, 2013; unless a party raises an objection, the proffered documents shall be deemed authenticated for the purposes of the trial.

Exhibit Lists

By agreement of the Parties, each party shall submit to the other an "exhibit list" which lists all documents and exhibits that the respective party intends to admit as evidence at the trial; this list need not include items used exclusively for rebuttal or impeachment evidence.

The JIC shall submit its exhibit list to Judge Batiste by July 15, 2013, and Judge Batiste shall submit her exhibit list to the JIC by July 19, 2013. A party may later amend its exhibit list on a showing of good cause.

Deposition of Judge Scott Vowell

Judge Batiste filed with the Court a "Motion for Court Order Directed to [Judge] Scott Vowell to Appear for a

Deposition with an Alabama Court of the Judicial Judge Present to Rule on Objections and/or Refusals to Answer."

Judge Batiste's motion for an order directing Judge Vowell to appear for a deposition is denied. The parties are generally directed to comply with the Rules for the Court of the Judiciary, and the Rules of Civil Procedure--specifically, Rules 10 and 22, Ala. Ct. Jud. P., and Rule 45, Ala. R. Civ. P.--as they apply to securing the appearance of a non-party deponent.¹

The Parties identified seven dates on which they are available to conduct a deposition of Judge Vowell--June 21, June 26, July 8-12, 2013--and agreed that an attorney for the JIC will contact Judge Vowell in an effort to determine which date is best for Judge Vowell. The parties also agreed that the deposition will take place in the conference room of the Court of Criminal Appeals, the same location as the status conference; Judge Michael Joiner indicated that he will be available during Judge Vowell's deposition to rule on any objections.

Judge Batiste's Motion to Strike/for a Summary Judgment

¹This ruling, however, does not bar an agreement between the Parties and a non-party deponent regarding procedures to be used to obtain a deposition.

On June 13, 2013, Judge Batiste filed a "Motion to Strike Complaint, or, in the alternative, Motion for Summary Judgment." A hearing on this motion will be held on the same date selected for Judge Vowell's deposition; the JIC may submit a written response, provided that the response is submitted no later than three days before the hearing on the motion.

Judge Batiste's recusal motion

On June 13, 2013, Judge Batiste filed a "Motion to Recuse Judge Laura Petro and any other Judges close to former Judge Scott Vowell." In her motion, she asks this Court "to order Judge Laura Petro and any other members of the Court of the Judiciary ... who are personally or professionally close to [Judge Scott Vowell] ... to recuse themselves from serving on the panel of judges."

Rule 6, Ala. Ct. Jud. P., states that "[n]o member of the court may participate in any proceedings before the court involving his own conduct or involving a matter in which he is interest or involved." Likewise, the Alabama Supreme Court has recognized that "[t]he standard for recusal is an objective one: whether a reasonable person knowing everything that the judge knows would have a 'reasonable basis for

questioning the judge's impartiality.'" Ex parte Bryant, 682 So. 2d 39, 41 (Ala. 1996) (quoting Ex parte Cotton, 638 So. 2d 870, 872 (Ala. 1994)). The decision to recuse is left to the discretion of each judge. Ex parte George, 962 So. 2d 789, 791 (Ala. 2006).

I, Judge Michael Joiner, do not recuse. Further, I do not suggest that any other judge recuse, but instead, leave that decision to the discretion of the respective Members of this Court; to this end, I have forwarded Judge Batiste's recusal motion to each of the Members of the Court of the Judiciary.

Additional Pretrial Matters

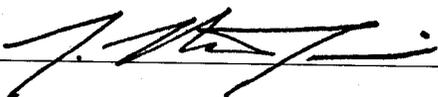
The trial on this complaint is set for July 29, 2013, at 10:30 a.m., and is currently scheduled for two days; the Court is in the process of the attempting to secure all members of the Court for a third day. The parties are each allowed 10 minutes for an opening statement and may submit trial briefs to the Court by noon on Friday, July 26, 2013.

The JIC has indicated that it may wish to amend its complaint; to the extent that the JIC wishes to amplify its original charges, that amendment shall be submitted on or

before June 28, 2013.² Finally, the parties discussed--and are encouraged to pursue--alternative dispute resolution as envisioned by Rule 10A., Jud. Inq. Comm. P.

Objections

Any objections to this order shall be raised within 10 days of the entry of this order.



J. MICHAEL JOINER
CHIEF JUDGE
COURT OF THE JUDICIARY

Dated: June 18, 2013

²This order does not address any amendment which may include additional charges.