

IN THE ALABAMA COURT OF THE JUDICIARY

FILED

APR - 8 2021

COURT OF THE JUDICIARY
Rebecca C. Oates
Secretary

IN THE MATTER OF:

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CASE NO. 58

TRACIE TODD
CIRCUIT COURT JUDGE
BIRMINGHAM DIVISION
CRIMINAL DIVISION
JEFFERSON COUNTY, AL

ORDER OF RECUSAL

The undersigned has reviewed the Complaint filed in this matter. Rule 6, Rules of Procedure for the Court of the Judiciary, 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 interested or involved.” It is clear that the undersigned is referenced in numerous parts of the Complaint either by name or as Judge Todd’s “predecessor.” Therefore, the undersigned could be classified as being “involved” in the proceedings.

Cannon 3(C)(1), Cannons of Judicial Ethics, also states that “[a] judge should disqualify himself in a proceeding in which his disqualification is required by law or his impartiality might reasonably be questioned, including but not limited to instances where: (a) He has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.” Although there is no actual bias in this case, when someone might reasonably question a judge’s ability to be impartial, then recusal is appropriate. In this case, the Complaint alleges instances of “erroneous rulings,” and some of Judge Todd’s rulings mentioned in the Complaint conflict with previous rulings by the undersigned judge when I served as a circuit court judge. Furthermore, after the undersigned was reappointed to serve as a circuit court judge several months after Judge Todd became a judge, my new

courtroom was the only other courtroom on the floor also occupied by Judge Todd. Although it appears to be unlikely that I would be called as a witness for either party in this case (which would require recusal under Cannon 3(C)(1)(d)(iii)), different individuals did discuss with me some occurrences during the time period in question and those conversations gave the undersigned judge “personal knowledge of disputed evidentiary facts” or facts that could potentially be disputed. Finally, some of the comments attributed to Judge Todd in the Complaint could be construed as referring to the undersigned judge, and a lay person could reasonably think that I might be biased by those comments or unable to judge that particular issue fairly.

Although neither party has filed a motion to recuse as of today’s date, the undersigned has an affirmative duty to determine if recusal is appropriate. Based upon the foregoing particular circumstances, I find that recusal is required, and I hereby recuse from this matter.



J. William Cole
Chief Judge
Alabama Court of the Judiciary