

## IN THE SUPREME COURT OF THE STATE OF MONTANA

PR 25-0001

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CYNTHIA J. LITTLE,

Petitioner,

and

O R D E R

ROBERT L. LITTLE,

Respondent.

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The Honorable Brenda R. Gilbert, presiding Judge in Cause No. DR-20-17 in the Sixth Judicial District Court, Park County, has forwarded to this Court a motion filed by Petitioner Cynthia J. Little. Although Little's motion is captioned as a motion for substitution, Judge Gilbert has forwarded the filing to this Court as a motion for disqualification for cause pursuant to § 3-1-805, MCA, because the time for substitution has long passed.

Section 3-1-805, MCA, provides that an affidavit for disqualification for cause must allege facts showing personal bias or prejudice of the presiding judge. In this instance, Little files no affidavit. In her motion, she alleges, "I do not Feel I will get a fair hearing or Judgement." Little alleges no facts showing personal bias or prejudice of the presiding judge. Under § 3-1-805, MCA, this provides insufficient grounds for disqualification, and therefore further disqualification proceedings under the statute are not warranted. Furthermore, § 3-1-804(1)(a), MCA, provides that motions to substitute in civil actions must be filed within 30 days after the first summons is served or an adverse party appears. The present litigation has been ongoing for over five years and a motion to substitute is therefore untimely. Section 3-1-804(4), MCA, provides that untimely substitution motions are void.

IT IS THEREFORE ORDERED that the motion to disqualify or substitute District Judge Brenda R. Gilbert from Park County Cause No. DR-20-17 is DENIED.

The Clerk is directed to provide copies of this Order to the Clerk of the District Court of Park County for notification to all parties in Cause No. DR-20-17, and to the Honorable Brenda R. Gilbert.