

IN THE SUPREME COURT OF THE STATE OF MONTANA

PR 25-0001

JAMES EARL SCONYERS,

Plaintiff,

v.

O R D E R

DANIEL O'CONNELL and
VALERY O'CONNELL,Defendants/Counterclaimants.

Daniel O'Connell and Valery O'Connell, representing themselves, have moved to disqualify the Honorable Brenda R. Gilbert from presiding in Cause No. DV-24-121 in the Sixth Judicial District Court, Park County, pursuant to § 3-1-805, MCA.

Section 3-1-805, MCA, provides an affidavit for disqualification for cause must allege facts showing personal bias or prejudice of the presiding judge. Section 3-1-805(1)(b), MCA, provides in part the affidavit will be deemed not to have been made in good faith if it is based solely on rulings in the case which can be addressed in an appeal from the final judgment.

O'Connells allege Judge Gilbert has demonstrated personal bias or prejudice because of rulings she made or failed to make. However, this is insufficient basis to support a disqualification motion because the rulings can be addressed in an appeal from the final judgment.

O'Connells also allege Judge Gilbert demonstrated bias because she advised one of them to "stop speaking" during a hearing and further stated they were "trying to try your whole case." O'Connells did not provide a transcript or other evidence to provide context for these statements, neither of which appears biased on its face. To the extent O'Connells

challenge in-court rulings by Judge Gilbert, they may raise the matters on appeal. These allegations are insufficient to demonstrate personal bias or prejudice.

Furthermore, we note the majority of the legal authority O'Connells offer in their disqualification motion appears to be fictitious. The Court has been unable to locate most of the purported caselaw they cite.

IT IS THEREFORE ORDERED that the motion to disqualify Judge Gilbert is VOID and thereby 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. DV-24-121, and to the Honorable Brenda R. Gilbert.