

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF MONTANA

Case No. PR 25-0001

DV-41-2021-352-CR

- FILED -
December 2, 2025
12/08/2025
Paige Trautwein
Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA
Ravalli County District Court
STATE OF MONTANA
Case Number: PR 25-0001
By: Catherine Di Gleria
DV-41-2021-0000352-CR
Recht, Howard F.
85.00

CANDICE JOHNSTON,

Plaintiff,

v.

STATE OF MONTANA,

Respondent.

FILED

DEC 08 2025

Bowen Greenwood
Clerk of Supreme Court
State of Montana

MOTION FOR CLARIFICATION OF ORDER DATED NOVEMBER 12, 2025.

I. INTRODUCTION

Petitioner Candice Johnston respectfully moves this Court to clarify its Order denying rehearing, filed November 12, 2025. Clarification is necessary because the Order is premised on a clear clerical error regarding the legal rule invoked by Petitioner, and because it overlooks material facts and constitutional arguments central to the disqualification motion.

II. THE COURT MISCHARACTERIZED THE LEGAL ARGUMENT AS RELYING ON RULE 2.12

The Court's Order denies relief on the mistaken premise that "Johnston asserts that this Court... should have applied M. C. Jud. Cond. 2.12 instead". The Court then correctly notes that Rule 2.12 applies to a judge's decision to disqualify *themselves*. However, Petitioner **never argued for the application of Rule 2.12**.

As the record reflects in the *Motion for Reconsideration* filed October 29, 2025, Petitioner explicitly cited and relied upon **Rule 2.11(A)**. Petitioner stated: "The

controlling Rule, 2.11(A) is found in the Code of Judicial Conduct... Rule 2.11(A)... is unambiguous: a judge 'shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned'".

By analyzing Rule 2.12 instead of Rule 2.11(A), the Court addressed an argument the Petitioner never made while failing to address the controlling authority actually presented.

III. THE COURT OVERLOOKED THE UNDISPUTED FACTS REGARDING THE TIMING OF THE ARREST AND COUNSEL'S ROLE

The Court's Order dismisses the allegations as "insufficient to demonstrate personal bias", treating the conflict as a generic prior-employment issue. This overlooks the specific, material facts regarding the *timing* of the events, which establish a direct conflict:

1. **Date of Injury:** Petitioner was arrested, detained, and struck by Justin Singleterry (Fish and Wildlife Officer) and Ravalli County law enforcement on **September 14, 2018**.
2. **Judge's Role:** At that precise moment, and continuing through the subsequent prosecution in 2019, Judge Howard F. Recht served as the **Chief Civil Counsel for Ravalli County**.
3. **Direct Nexus:** This is not a case where a judge merely worked for a party in the past. Judge Recht was the Chief Legal Counsel for the Defendant *at the time* the Defendant inflicted the injuries now being litigated.

The Court's Order fails to address how a judge can preside over a case involving an arrest and prosecution that occurred while he was the supervisor of the legal office responsible for those very actions.

IV. THE COURT IGNORED THE CONSTITUTIONAL DUE PROCESS CHALLENGE

Finally, the Court's Order is silent regarding the constitutional challenge raised by Petitioner. The Motion for Reconsideration expressly argued that the "appearance of partiality" standard is a "structural guarantee" of Due Process under the Fourteenth Amendment, citing *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009) and *Williams v. Pennsylvania*, 579 U.S. 1 (2016).

Petitioner argued that when a judge sits in judgment of his own former client regarding events that occurred during his representation, the "probability of actual bias" is too high to be constitutionally tolerable. The Court's Order addresses only state statutes (§ 3-1-805) and the wrong judicial canon (Rule 2.12), entirely overlooking the federal constitutional mandate requiring recusal.

V. CONCLUSION

The Court's Order addressed a rule Petitioner did not cite (Rule 2.12) and ignored the rule she did (Rule 2.11(A)). It further overlooked the critical fact that Judge Recht was Chief Counsel *during* the arrest and prosecution, and it failed to address the Due Process implications of such a conflict.

Petitioner respectfully requests this Court clarify its Order to address the actual arguments and facts presented: Rule 2.11(A), the 2018 timeline of representation, and the Constitutional Due Process challenge.

DATED this 1st day of December 2025.

Respectfully submitted,

Candice Johnston Pro Se Plaintiff

CERTIFICATE OF SERVICE

I certify that on December 1, 2025, I electronically filed the foregoing with the Clerk of Court using the email address courtfilings@rc.mt.gov or clerkofsupremecourt@mt.gov. A true copy was sent by the Plaintiffs via U.S. Mail or via facsimile or email to all Defendants counsel.

Candice Johnston

Respectfully submitted,

Candice Johnston

Candice Johnston
/s/ Et. Al.

I certify that on December 1, 2025, I served true and correct copies of the Foregoing.

Hon. Howard F. Recht, District Judge
Montana Twenty-First Judicial District Court
205 Bedford Street
Hamilton, MT 59840
Service method: [E-mail to chambers / U.S. Mail / hand delivery]