

## IN THE SUPREME COURT OF THE STATE OF MONTANA

PR 25-0001

---

RAEANN EMERSON,

Plaintiff,

v.

O R D E R

SUPREME COURT STATE OF MONTANA,

Defendant,

---

Raeann Emerson filed a motion captioned “Motion for Leave to File Out-of-Time Motion for Substitution of Judge” before the Honorable Christopher D. Abbott, presiding Judge in Cause No. DV-2024-128 in the Twentieth Judicial District Court, Lake County, Judge Abbott denied Emerson’s motion for substitution in this civil action as untimely under § 3-1-804(8), MCA, because Emerson filed the motion more than 30 days after the March 19, 2025 Order of Recusal and Assumption of Jurisdiction, in which Judge Abbott assumed jurisdiction over this matter after Hon. John A. Mercer, the previously assigned judge, recused himself. Recognizing the substance of Emerson’s motion may also be construed as a request for disqualification for cause under § 3-1-805, MCA, Judge Abbott has referred the matter to this Court for further consideration. We address only Emerson’s request for disqualification and the allegations she raises concerning Judge Abbott. Emerson’s dissatisfaction with procedural matters occurring prior to Judge Abbott’s assumption of jurisdiction have no relevance to any request for disqualification of the presiding judge under § 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. In this instance,

Emerson files no affidavit. Pursuant to § 3-1-805(1)(c), MCA, Emerson’s filing is not in proper form and this Court may set it aside as void.

Furthermore, § 3-1-805, MCA, provides, in relevant part, an affidavit for disqualification for cause must allege facts showing personal bias or prejudice of the presiding judge. In this case, Emerson alleges Judge Abbott engaged in “improper and prejudicial conduct . . . in a separate but related matter.” Emerson provides a summary account of this allegedly prejudicial conduct, asserting Judge Abbott issued orders in a separate civil matter involving Emerson in which Judge Abbott documented in court orders that a clerk of court “attempted to engage him in ex parte discussions.” Emerson makes no specific allegations of personal bias or prejudice from Judge Abbott. Her allegations are insufficient to demonstrate personal bias or prejudice. As a result, it is unnecessary to appoint a district judge to hear this matter.

IT IS THEREFORE ORDERED the motion to disqualify District Judge Christopher D. Abbott from Lake County Cause No. DV-2024-128 is VOID and thereby DENIED.

The Clerk is directed to provide copies of this Order to the Clerk of the District Court of Lake County for notification to all counsel of record in Cause No. DV-2024-128, and to the Honorable Christopher D. Abbott.