

## IN THE SUPREME COURT OF THE STATE OF MONTANA

PR 26-0001

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STATE OF MONTANA,

Plaintiff,

v.

JUSTIN FLOYD STROUP,

Defendant

A M E N D E D  
O R D E R

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Justin Floyd Stroup, via counsel, has petitioned for rehearing of the April 21, 2026 denial of his motion to disqualify the Honorable John W. Larson from presiding in Cause No. DC-24-575 in the Fourth Judicial District Court, Missoula County, pursuant to § 3-1-805, MCA. I found Stroup's motion void pursuant to § 3-1-805(1)(c), MCA, because Stroup's counsel did not file the requisite affidavit and certificate of good faith.

A petition for rehearing will be considered only on grounds that the Court overlooked some fact material to the decision or some question presented would have proven decisive to the case, or the Court's decision conflicts with a statute or controlling decision that was not addressed. M. R. App. P. 20(1)(a). Stroup neither cites to M. R. App. P. 20 nor offers argument as to how his petition for rehearing meets the criteria established in Rule 20. In this instance, Stroup asserts his counsel filed both an affidavit and a certificate of good faith when he filed his motion in the District Court, but the affidavit and certificate were not transmitted to this Court with the motion. He provides copies of both as supplements to the previously denied motion for disqualification. As such, I consider Stroup's "petition for rehearing" as curing a deficient filing and will consider his motion for disqualification along with the provided affidavit and certificate of good faith on their merits.

Section 3-1-805, MCA, provides an affidavit for disqualification for cause must allege facts showing personal bias or prejudice of the presiding judge. Moreover, § 3-1-805(1)(b), MCA, provides an affidavit cannot be based solely on rulings in the case which can be addressed on appeal. Stroup alleges his counsel inadvertently filed “appended research and work-product materials” along with a motion to dismiss on February 9, 2026. Ten days later, she filed a “corrected” motion “with full Local Rule 3(g)<sup>1</sup> certification.” Stroup thus implies that the February 9, 2026 motion to dismiss, or its inadvertently “appended research and work-product materials,” was prepared with the use of generative artificial intelligence (“GenAI”) but lacked the requisite disclosure. Stroup states that, after counsel filed the corrected motion, Judge Larson vacated Stroup’s trial date of February 23, 2026, sua sponte.

Stroup further alleges that, on March 13, 2026, Judge Larson issued an Order of Rejection that rejected all defense filings. Judge Larson further took judicial notice that Stroup’s counsel had allegedly filed documents in two other cases before him that similarly failed to properly disclose her use of GenAI in their preparation. Judge Larson issued similar orders in the other two cases, commenting in the Order of Rejection in Stroup’s case that the orders of rejection “underline not only the inept use of GenAI but also an unacceptable level of practice before this Court.” Judge Larson rejected the filings but provided Stroup leave to cure the filings in compliance with the applicable rules.

Stroup argues Judge Larson’s decision to vacate trial, at great inconvenience to the defense and to Stroup’s personal detriment, as well as his characterization of counsel’s use of GenAI as “inept” and “an unacceptable level of practice before this Court,” evinces personal bias or prejudice such that Judge Larson should be disqualified from presiding

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<sup>1</sup> Montana Fourth Judicial District Court Rules of Practice 3(G) provides, in summary, that any filer who uses generative artificial intelligence tools in the preparation of a filing must disclose such use and must certify that the party has checked the accuracy of any portion of the document drafted or assisted by the tool. The rule further provides for sanctions for failure to disclose that may include dismissal of the case, document, or pleading without prejudice.

over Stroup’s case. Stroup argues Judge Larson’s rulings “amplified” the harm caused by his counsel’s erroneous filing when Judge Larson “could have taken immediate, specific steps to limit” its impact. In short, Stroup argues he was not harmed by his counsel’s errors but rather by the consequences the court imposed in response to counsel’s failure to follow the local rule requiring disclosure of the use of GenAI and counsel’s error in filing documents that she did not intend to attach to the motion to dismiss.

The fact that Judge Larson chose to impose sanctions of a kind permitted under Local Rule 3(G) is insufficient to demonstrate personal bias or prejudice. As such, it is not necessary to refer this matter for further proceedings.

IT IS THEREFORE ORDERED that the motion to disqualify District Judge John W. Larson from Missoula County Cause No. DC-24-575 is VOID and thereby DENIED.

The Clerk is directed to provide copies of this Order to the Clerk of the District Court of Missoula County for notification to all counsel of record in Cause No. DC-24-575, and to the Honorable John W. Larson.