

IN THE SUPREME COURT OF THE STATE OF NEVADA

KIM BLANDINO,

Appellant,

vs.

THE STATE OF NEVADA,

Appellee.

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Elizabeth A. Brown
Clerk of Supreme Court

CASE NO: 84433

APPELLANT'S APPENDIX XI

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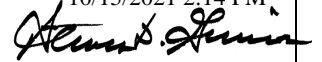
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CLERK OF THE COURT

ODM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

* * * *

CASE NO.: C-19-341767-1

THE STATE OF NEVADA,

DEPARTMENT 27

Plaintiff(s),

vs.

KIM BLANDINO,

Defendant.

ORDER DENYING MOTION TO DISQUALIFY JUDGE TIERRA JONES AND

JUDGE MICHELLE LEAVITT

On October 14, 2021, a hearing was held before the Court on Defendant's Motion to Disqualify Judge Tierra Jones and a Renewed Motion to Disqualify Judge Michelle Leavitt ("Motion to Disqualify"). Defendant, Kim Blandino, *pro se* ("Defendant") appeared telephonically (via BlueJeans Videoconferencing).

Argument was presented by Defendant regarding the merits of Defendant's Motions. The matter was taken under advisement and set on October 19 Chamber Calendar for ruling by minute order. The Court, having reviewed the papers and pleadings on file, and having considered the argument of Defendant, makes the following findings and orders.

I. FINDINGS OF FACTS

COURT FINDS after review that On July 12, 2019, Defendant was indicted on felony and gross misdemeanor charges. The case was assigned to Judge Michelle Leavitt. Judge Leavitt referred Defendant for competency evaluation on September 17, 2019.

1 **COURT FURTHER FINDS** after review that On December 13, 2019, Defendant filed a
2 Motion to Disqualify Judge Leavitt, Judge Linda Bell, and all judges of the Eighth Judicial
3 District Court. Judges Leavitt and Bell filed affidavits denying any bias or prejudice towards any
4 party in this case. The Motion was denied on January 23, 2020. Defendant was found competent
5 to proceed with adjudication on April 9, 2020.
6

7 **COURT FURTHER FINDS** after review that On May 7, 2020, Defendant filed another
8 Motion to Disqualify Judges Leavitt, Bell, Silva, Marquis, Hardy, Villani, and all judges of the
9 Eighth Judicial District Court. No certificate of service was included with the May 7, 2020
10 Motion. On July 1, 2020, parties appeared before Senior Judge Barker for a Trial Readiness
11 conference. Following the Trial Readiness Conference, Defendant filed a Motion to Disqualify
12 Senior Judge Barker on July 10, 2020. Both the May 7, 2020 and July 10, 2020 Motions to
13 Disqualify were denied by Chief Judge Linda Bell.
14

15 **COURT FURTHER FINDS** after review that on August 11, 2020, Defendant filed an
16 Emergency Motion to Disqualify Chief Judge Bell, and simultaneously filed a Motion for
17 Reconsideration regarding Judge Bell's August 3, 2020 Decision and Order. Both the Emergency
18 Motion and the Motion for Reconsideration were denied by Judge Bell.
19

20 **COURT FURTHER FINDS** after review that on March 8, 2021, Defendant filed
21 another Motion to Disqualify Judge Leavitt. On March 15, 2021, Defendant filed another Motion
22 to Disqualify Chief Judge Bell. On April 14, 2021, Defendant filed another Motion to Disqualify
23 Judges Leavitt and Judge Bell. On April 22, 2021, Defendant filed a Motion to Disqualify Judge
24 Tierra D. Jones. On May 6, 2021, Defendant filed a Motion to Disqualify Judge Nancy Allf.
25
26

27 **COURT FURTHER FINDS** after review that on August 8, 2021, an Order Denying
28 Defendant's Motion to Disqualify Judge Leavitt was filed.

COURT FURTHER FINDS On August 18 and 23, 2021, Defendant filed another Motion to Disqualify Judge Leavitt. On August 20 and September 23, 2021, the Motions were denied by Judge Jones. On September 29, 2021, Defendant filed Motions to Disqualify Judge Leavitt and Judge Jones. Judge Jones filed an affidavit in response thereto on October 6, 2021.

II. ORDER

COURT FINDS after review NRS 1.230 provides:

1. A judge shall not act in an action or proceeding when the judge entertains actual bias or prejudice for or against one of the parties to the action.
2. A judge shall not act as such in an action or proceeding when implied bias exists in any of the following respects:
 - a. When the judge is a party to or interested in the action or proceeding.
 - b. When the judge is related to either party by consanguinity or affinity within the third degree.
 - c. When the judge has been attorney or counsel for either of the parties in the particular action or proceeding before the court.
 - d. When the judge is related to an attorney or counselor for either of the parties by consanguinity or affinity within the third degree. This paragraph does not apply to the presentation of ex parte or contested matters, except in fixing fees for an attorney so related to the judge.

COURT FURTHER FINDS after review NCJC 2.11(A) provides:

- A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances:
- (1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of facts that are in dispute in the proceeding.

COURT FURTHER FINDS after review that the burden is on the party asserting the challenge to establish sufficient factual and legal grounds warranting disqualification. *Las Vegas Downtown Redevelopment Agency v. District Court*, 5 P.3d 1059, 1061 (Nev. 2000). Also, the Court must give substantial weight to a judge's determination that the judge may not voluntarily

1 disqualify themselves, and the judge's decision cannot be overturned in the absence of clear
2 abuse of discretion. *In re Pet. To Recall Dunleavy*, 769 P.2d 1271, 1274 (Nev. 1988).

3
4 **COURT FURTHER FINDS** after review that Defendant has not demonstrated sufficient
5 factual and legal grounds to support the disqualification of Judge Jones and Judge Leavitt. Judge
6 Jones's affidavit validates that she holds no bias towards Defendant and will continue to strive to
7 be impartial and unbiased in her role.

8
9 **THEREFORE, COURT ORDERS** for good cause appearing and after review having
10 considered the Motion to Disqualify Judge Jones and Judge Leavitt, together with Judge Jones's
11 affidavit in response thereto, this Court hereby **DENIES** the Motions to Disqualify.

12
13 October 15, 2021

14
15 Dated this 15th day of October, 2021

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17
18 D3A 7D0 CA53 69E1
19 Nancy Allf
20 District Court Judge

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CERTIFICATE OF SERVICE

I hereby certify that on or about the date signed I caused the foregoing document to be electronically served pursuant to EDCR 8.05(a) and 8.05(f) through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail to

_____/s/_____
Deborah Bedgood-Ealy
Judicial Executive Assistant

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

State of Nevada

CASE NO: C-19-341767-1

vs

DEPT. NO. Department 12

Kim Blandino

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Order Denying Motion was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **APPELANT'S APPENDIX XI** with the Clerk of the Court by using the electronic filing system on the 27th day of March 2023.

The following participants in this case are registered electronic filing system users and will be served electronically:

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