

IN THE CIRCUIT COURT FOR THE EIGHTEENTH JUDICIAL CIRCUIT,
IN AND FOR SEMINOLE COUNTY, FLORIDA

CASE NO. 12-CF-1083-A

STATE OF FLORIDA,

Plaintiff(s),

vs.

GEORGE ZIMMERMAN,

Defendant(s).

ORDER DISMISSING DEFENDANT'S VERIFIED MOTION TO DISQUALIFY TRIAL JUDGE

THIS MATTER came before the Court for consideration on the Defendant's Verified Motion to Disqualify Trial Judge, filed pursuant to Rule 2.330(d)(1), Florida Rules of Judicial Administration. This Court is required by law to review the motion for the sole purpose of determining its legal sufficiency.¹ *Turner v. State*, 598 So. 2d 186 (Fla. 1st DCA 1992). For purposes of determining legal sufficiency, the Court must assume all of the factual allegations supporting the motion are true. *Deren v. Williams*, 521 So. 2d 150 (Fla. 5th DCA 1988). The Court is not permitted to deny the allegations supporting the motion as untrue, reject them as unfounded, or comment upon them at all. To do so establishes independent grounds for disqualification. *Bundy v. Rudd*, 366 So. 2d 440, 442 (Fla. 1978).

Therefore, as required by law, the Court assumes the factual allegations supporting the motion for disqualification are true solely for the purpose of determining legal sufficiency. With that standard in mind, the Court finds the motion to be legally insufficient. *See Jackson v. State*, 599 So. 2d 103, 107 (Fla. 1992); *Brown v. St. George Island, Ltd.*, 561 So. 2d 253, 257 n.7 (Fla. 1990); *Liteky v. United States* 510 U.S. 540, 550-56 (1994). Accordingly, it is

¹ Although this Court is treating this as a first motion, it is unclear if it actually qualifies as such. The Defendant moved to recuse Judge Recksiedler on the basis of Fla. R. Jud. Admin. 2.330(d)(2), which mandates recusal when a judge is related to an interested party. Judge Recksiedler found that she did not have an interest that could be substantially affected, nor was there any allegation that she was or would be exposed to extra-judicial information through her husband's employment. She therefore found that these assertions were legally insufficient. Defendant also argued language associated with Fla.R. Jud. Admin. 2.330(d)(1). However, in an abundance of caution and based on the "totality of the circumstances," she recused herself. This would indicate that her recusal was, in fact, based upon Fla. R. Jud. Admin. 2.330(d)(1), making this a successive motion under subsection (g) of that rule. Should that be determined, this court is prepared to rule on the truth of the facts alleged in support of the motion. However, without further guidance by a higher court, this Court will treat this motion as an initial motion.

ORDERED AND ADJUDGED:

The Defendant's Verified Motion to Disqualify Trial Judge is hereby **denied** as legally insufficient.

DONE AND ORDERED in chambers at Sanford, Seminole County, Florida this 1st day of August, 2012.


KENNETH R. LESTER, JR., Circuit Judge

Copies furnished this 1st day of August, 2012 to:

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