

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT PALMER

HOLLY SHELDON LEE,
Plaintiff,

v.

BIRCH HORTON BITTNER, INC., an
Alaska Professional Corporation,
DAVID KARL GROSS, and MARA E.
MICHALETZ,
Defendants.

Case No. 3PA-20-01219CI

ORDER DENYING RECUSAL MOTION

On December 18, 2025, Plaintiff, Holly Sheldon Lee, filed a *Motion & Memorandum for Recusal of Judge for Cause* (Motion to Recuse). Sheldon Lee’s request for recusal is based on the fact that this court’s decision on *Defendants’ First Motion for Summary Judgment* was overturned on appeal. Sheldon Lee asserts recusal is necessary based on an appearance of bias, as opposed to actual bias. Specifically, Sheldon Lee states the Alaska Supreme Court found “the trial court failed to take Plaintiff’s factual allegations as true, improperly resolved disputed facts, credited unsupported assertions over admissible evidence, failed to rule on a Rule 56(f) request, rejected proffered evidence on reconsideration, and denied leave to amend resulting in abuse of discretion.” Sheldon Lee asserts these “are errors in the core judicial function” which, on remand, require “fresh neutrality” that this court does not have the capacity to engage in under the circumstances.

The Alaska Supreme Court addressed a similar question relatively recently in *State v. Graham*¹ following appeal from the Alaska Court of Appeals’ decision in *Graham v. State*². In *Graham v. State*, the Alaska Court of Appeals reversed a sentencing decision of the Superior Court

¹ 513 P.3d 1046 (Alaska 2022).

² 440 P.3d 309 (Alaska App. 2019).

and ordered that a different judge hear the re-sentencing on remand due to the highly emotional nature of the original sentencing hearing in which potentially prejudicial evidence was erroneously considered.³ The Alaska Supreme Court reversed the Court of Appeals' decision requiring reassignment, disagreeing that the same trial judge could not render a fair sentence. In so ruling, the Alaska Supreme Court stated,

Alaska Judicial Canon 3(E)(1) requires a judge to disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned. But we will not overturn a judge's decision [not to recuse] unless it is plain that a fair-minded person could not rationally come to that conclusion on the basis of the known facts. And a judge has an obligation not to order disqualification when there is no occasion to do so.⁴

As to what is required for the Alaska Supreme Court to determine a judge has erred by failing to recuse herself, “[a] showing of actual bias in the decision rendered ... or the appearance of partiality might be sufficient grounds for us to reverse in an appropriate case. Where only the *appearance* of partiality is involved, however, we will require a greater showing for reversal.”⁵

Further,

A judge's belief that he could be impartial deserves great deference. A judge's exposure to inadmissible evidence does not necessarily result in prejudice warranting recusal. Likewise, the fact that a judge commits error in the course of a proceeding does not automatically give rise to an inference of actual bias. In other words, “[m]ere evidence that a judge has exercised his judicial discretion in a particular way is not sufficient to require disqualification.”⁶

Here, the sole basis for Sheldon Lee's Motion to Recuse is the fact this court erred in its application of the law and was reversed on appeal. Neither the Supreme Court's decision, nor Sheldon Lee's Motion to Recuse, suggest the undersigned ruled against Sheldon Lee for any reason other than a misapplication of legal principles. In fact, Sheldon Lee's motion makes clear she is

³ *Id.* at 327.

⁴ *State v. Graham*, 513 P.3d 1046, 1070 (Alaska 2022) (internal quotations and citations omitted).

⁵ *Id.* (emphasis added).

⁶ *Id.* at 1070-71 (quoting *Sagers v. Sackinger*, 318 P.3d 860, 867 (Alaska 2014)).

not claiming actual bias—her Motion to Recuse asserts “a serious risk of perceived bias.” But, as the Alaska Supreme Court has recognized,

Trial judges are often called upon to compartmentalize their decisions—to review evidence that is later declared to be inadmissible or to rule on similar legal issues at different stages of a contested case. Generally, these decisions do not create an appearance of impropriety unless the judge hears something or does something so prejudicial that further participation would be unfair to the parties.

Sheldon Lee’s motion only generally asserts an appearance of impropriety—it does not assert any exceptional facts or circumstance that would cause this case to be treated any differently from any other case following appellate court reversal.

Therefore, Sheldon Lee’s *Motion and Memorandum for Recusal of Judge for Cause* is hereby DENIED. Pursuant to A.S. 22.20.020(c), this matter will be referred to the Alaska Supreme Court for review by another judicial officer. While it is being reviewed, the undersigned will take no further action on any issues pending before it in this case.

DONE and ENTERED this 2nd day of January 2026 at Palmer, Alaska.

A handwritten signature in black ink that reads "Kristen C Stohler" with a long horizontal flourish extending to the right.

Kristen Stohler
Superior Court Judge

Alaska Trial Courts

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