

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION

UNITED STATES OF AMERICA

v.

ELENA RUTH SASSOWER

Criminal No: M-0411303
Next Event: September 19, 2003

MEMORANDUM AND ORDER

Defendant has moved for reargument, disclosure by and disqualification of this judge from her case.

As to the motion for reargument that motion is DENIED AS MOOT. This court, in an undated order entered August 14, 2003 denied defendant's motion to "adjourn" the August 20, 2003 status and ascertainment of counsel hearing. While no opposition to the motion had been filed, the court is of course not bound to grant a request simply because is it unopposed. In this court's judgment the fact that defendant had not then obtained counsel was not a good enough reason for canceling the hearing and waiving her appearance especially since under those circumstances the court would not have a complete record for any sanctions that might be warranted should defendant not appear at a subsequently scheduled hearing.

In any event, on August 20, 2003 Judge Abrecht conducted a hearing by speakerphone and set September 19, 2003 as the continued status and ascertainment of counsel date. Accordingly, the motion to reargue this court's order is moot.

As to defendant's request of facts bearing upon my ability to be fair and impartial the simple answer is that I have no bias or prejudice against defendant and know nothing of her other than what I have learned by reading the court jacket.

With respect to her motion that I disqualify myself from sitting on her case that motion is DENIED.

Defendant's motion to disqualify, on its face, is insufficient. Superior Court Civil Rule 63-I made applicable to this case by the counterpart Criminal Procedure Rule 57(a) requires among other things a sufficient affidavit that

(a)...shall state the facts and reasons for the belief that bias or prejudice exists and shall be accompanied by a certificate of counsel of record stating that it is made in good faith.

Defendant's affidavit is not accompanied by a certificate of counsel of record stating that the affidavit is made in good faith. That alone is reason enough to deny the motion.

Brown v. D.C. 549 A.2d 1107, 1113 (D.C. App. 1988). Moreover, the affidavit is otherwise insufficient as well. Defendant bases her request for disqualification on the grounds that her request to adjourn was unopposed, in her view, reasonable, and the order denying her request did not state reasons. None of these grounds even remotely asserts prejudice from an extra-judicial source. Rather, they simply reflect dissatisfaction with this court's ruling denying her motion. That is plainly not sufficient. Liberty Lobby Inc. v. Dow, Inc., 888 F.2d 1287 (D.C. App. 1988). Almost invariably one side or another will be dissatisfied by a judge's ruling. If that were a basis for recusal it is hard to imagine any case being heard to its conclusion.

Whether or not I will have any connection with this case depends upon whether I will be sitting on the calendar to which it is assigned on the date it is to be heard.¹ But there is no reason to eliminate myself from that possible eventuality.

For the foregoing reasons, defendant's motion for reargument disclosure by and disqualification of, Senior Judge Eilperin is DENIED.

September 3, 2003



Senior Judge Stephen Eilperin

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¹ The case has not been assigned for all purposes to any particular judge, and I happened to act on defendant's motion to adjourn because I had the calendar at that time.