

IN THE SUPREME COURT OF THE STATE OF NEVADA

KIM BLANDINO,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK, AND THE HONORABLE T.  
ARTHUR RITCHIE, JR., DISTRICT  
JUDGE, FAMILY COURT DIVISION,

Respondents.

No. 38531

**FILED**

DEC 17 2001

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

ORDER GRANTING PETITION FOR WRIT OF MANDAMUS

Kim Blandino, through this proper person petition for a writ of mandamus or prohibition, challenges Judge Ritchie's recusal of himself in the underlying family court case. In response to this court's October 10, 2001 order, Judge Ritchie has filed an answer giving his reasons for recusing himself. Having considered the petition, answer and other documents submitted by the parties,<sup>1</sup> we conclude that our intervention is warranted.

As a general rule, judges have a duty to preside over matters assigned to them to the conclusion of all proceedings, absent a statute, court rule, ethical standard or other compelling reason to the contrary.<sup>2</sup> A judge is presumed to be impartial, and here, Judge Ritchie asserts that he is in fact impartial. Judge Ritchie recused himself "[t]o avoid the appearance of impropriety and implied bias."

Judge Ritchie's first reason is derived from the Nevada Code of Judicial Conduct's directive, in Canon 2, that "a judge shall avoid impropriety and the appearance of impropriety in all of the judge's

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<sup>1</sup>Although petitioner was not granted leave to file papers in proper person, see NRAP 46(b), we have considered all documents received from petitioner.

<sup>2</sup>Las Vegas Downtown Redev. v. Dist. Ct., 116 Nev. 640, 5 P.3d 1059 (2000); Ham v. District Court, 93 Nev. 409, 566 P.2d 420 (1977); NCJC Canon 3(B)(1).

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activities.” However, we have held that NCJC Canon 2 does not in and of itself serve as grounds for a judge’s disqualification.<sup>3</sup> Instead, we must consider whether there are grounds to disqualify the judge under NCJC Canon 3(E)(1).<sup>4</sup>

NCJC Canon 3(E)(1) requires that a judge disqualify himself “in a proceeding in which the judge’s impartiality might reasonably be questioned,” such as when the judge has a personal bias or prejudice concerning a party or a party’s lawyer, or personal knowledge of disputed facts, or has served as a lawyer or material witness in the matter, or has a specific conflict from which bias may be implied. The Commentary explains that a judge is disqualified whenever the judge’s impartiality might reasonably be questioned, regardless whether any of the specific rules in Canon 3E(1) apply. The Commentary further explains that a judge should disclose on the record information that the judge believes the parties or their lawyers might reasonably consider relevant to the question of disqualification, even if the judge believes there is no real basis for disqualification. Here, none of the specific rules in Canon 3(E)(1) apply, Judge Ritchie states that he is impartial, and no party has questioned his impartiality—even after he disclosed that he had heard unfavorable comments about Blandino. There is no basis for disqualification under NCJC Canon 3(E)(1).

Judge Ritchie’s second reason is derived from NRS 1.230(2), which disqualifies a judge for implied bias if the judge (a) is a party to or interested in the matter, (b) is related to a party, (c) has represented a party in the matter, or (d) is related to a party’s attorney, and NRS 1.230(3), which permits a judge to disqualify himself for implied bias. However, Judge Ritchie has not identified any reason for implying bias under the statute.

Given the lack of grounds for disqualification, Judge Ritchie’s sworn statement that he has no personal bias against Blandino, and Blandino’s request that the case be returned to Judge Ritchie because he is in fact objective and impartial, we perceive no reason why Judge Ritchie cannot or should not preside over the matter. Accordingly, since Blandino


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<sup>3</sup>Las Vegas Downtown Redev., 116 Nev. at 644, 5 P.3d at 1061-62.


<sup>4</sup>Id. at 644, 5 P.3d at 1062.

has no other plain, speedy and adequate remedy at law, we grant his petition. The clerk of the court shall issue a writ of mandamus compelling Judge Ritchie to preside over the district court proceedings.<sup>5</sup>

It is so ORDERED.<sup>6</sup>

  
\_\_\_\_\_, J.  
Young

  
\_\_\_\_\_, J.  
Agosti

  
\_\_\_\_\_, J.  
Leavitt

cc: Hon. T. Arthur Ritchie Jr., District Judge, Family Court Division  
Clark County District Attorney  
Kim Blandino  
Peter J. Bellon  
Clark County Clerk

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<sup>5</sup>We vacate the administrative order assigning this case to Judge Papez.

<sup>6</sup>We deny petitioner's motions for other relief. We decline to publish our decision in this matter. Because the filing fee was waived, petitioner's motion to proceed in forma pauperis is moot. The motion to expedite is also moot. Finally, the motion for visitation should be addressed to the district court.