

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY,
FLORIDA.

STATE OF FLORIDA,

Plaintiff,

CASE NO.: 05-2015-CF-039871-AXXX-XX

vs.

DANA LYNN LOYD

Defendant.

MOTION TO DISQUALIFY JUDGE DUE TO BIAS OR PREJUDICE

COMES NOW, the Defendant DANA LYNN LOYD, by and through her undersigned counsel and respectfully moves this Honorable Court, and Honorable Robin Lemonidis to disqualify herself from sitting on further proceedings in the above referenced case. The Plaintiff hereby files this Motion pursuant to § 38.02 and § 38.10, Fla. Stat. (1997), and the Fla. Code Jud. Conduct, Canon 3E. In support of this Motion, the Defendant alleges the following:

1. The Defendant DANA LYNN LOYD runs an online publication in which the crux of her stories reveal corruption regarding high powered officials in law enforcement and the judicial system of the Eighteenth Judicial Circuit.

2. On or about May 23, 2016, this Honorable Court heard the Defendant's Motion for Contempt against the State of Florida for violating this Honorable Court's Order in reference to the Confidentiality of this entire case file. This Motion for Contempt alleged that confidentiality was breached when the State Attorney reached out to Attorney Mark Peters, attorney of record for the alleged victim, [REDACTED] family law case with confidential information and that Attorney Peters was supplied with documents from the criminal case that had already been deemed confidential. At this hearing the State denied ever speaking to Attorney Mark

Peters, denied issuing documents to Attorney Peters and stated that they only reached out to the alleged victim, [REDACTED] and never to his family law attorney.

3. This Honorable Court denied said Motion for Contempt by stating she has worked with the State every day for the last year and the State consists of people with ethics and candor and she did not believe that this was an intentional violation of the Court's Order. This Honorable Court further stated that the undersigned counsel and the Defendant are attempting to passively aggressively harass Mr. [REDACTED]

4. On or about May 23, 2016, the State Attorney reached out **again** to Attorney Mark Peters and relayed specifics about the Defendant's criminal case. (See Exhibit "B", Letter from Mark Peters, Esquire) After this contact was made, the undersigned attorney received the attached letter with significant confidential details regarding this matter. The Defendant believes that she will not be able to receive a fair and impartial trial.

5. The Defendant believes that this Honorable Court has shown an obvious prejudice towards her. This prejudice will have an inevitable negative impact on her criminal proceedings that are yet to be presented before the Honorable Robin Lemonidis. Her bias will affect how she rules on certain issues throughout this criminal trial. The Defendant believes that for the foregoing reason, Judge Robin Lemonidis cannot be neutral and impartial in this matter.

6. As a result of all of the aforementioned actions, the Defendant has a well grounded fear that she will not receive a fair trial at the hands of the Honorable Judge Robin Lemonidis.

7. Defendant submits that pursuant to Florida Code of Judicial Conduct, Canon 3E, a "judge shall disqualify herself ...[when] the Judge's impartiality might be reasonably questioned." Canon 3E(1)(a) further adds that personal bias against a party's attorney is reason

for disqualification. The Defendant feels that the circumstances discussed in this Motion mandate that Judge Lemonidis recuse herself from any further proceedings regarding the Defendant.

8. As further basis the Defendant would offer the following cases in support of her Motion to Disqualify. In Livingston v. State, 441 So.2d 1083 (Fla 1984), states that the “question of disqualification focuses on the matters from which a litigant may reasonably question a judge’s impartiality rather than the judge’s perception of his ability to act fairly and impartially.” (*Id*, at 1086). Additionally, Livingston, supra, stands for the position that the position of disqualification focuses on matters from which a litigant may reasonably question a judge’s impartiality rather than the judge’s perception of his ability to act fairly and impartially (*Id* at 1086). *See also*, Havslip v. Douglas, 400 So. 2d 533, (Fla. 4th DCA 1981).

9. Additionally, the Defendant bases this Motion on § 38.02 and § 38.10 of the Florida Statutes Plaintiff has met the requirements of the statutes and offers the following cases in support of her Motion. In Ginsberg v. Holt, 86 So. 2d 650, (Fla. 1956) the Florida Supreme Court found that bias against a party’s attorney can be detrimental enough to warrant recusal by a judge. The determination should be made as to whether a reasonable prudent person would be in fear of not receiving a fair trial (*Id* at 1087). In Bundy v. Rudd, 366 So. 2d 440, (Fla. 1978), the Florida Supreme Court stated that a judge shall not pass on the truth of the allegations or look beyond the legal sufficiency of a Motion for Disqualification. If a judge does exceed the proper scope of inquiry, then that alone is basis for disqualification, *See also*, Rogers v. State, 630 So. 2d 513, (Fla. 1993).

10. The facts are set forth in the accompanying Affidavit.

WHEREFORE, the Defendant DANA LYNN LOYD prays the Honorable Robin Lemonidis proceed no further in this cause and that another judge be designated in this cause.

I HEREBY CERTIFY this Motion to Disqualify the Honorable Judge Robin Lemonidis is made in good faith.

WHEREFORE the Defendant respectfully requests the Honorable Judge Robin Lemonidis grant the Motion to Disqualify and recuse herself from the civil matter of the Defendant.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true and correct copy of the foregoing has furnished by U.S. Mail delivery to the, Sean Sendra at 400 South Street, Suite D, Titusville, Florida 32780 and the Honorable Judge Robin Lemonidis, County Court Judge, Titusville Courthouse, 506 S. Palm Ave., Titusville, Florida 32796, this 20th day of July 2016.

Law Office of Jessica Burgess, P.A.

/s/ Jessica L. Burgess .
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IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY,
FLORIDA.

STATE OF FLORIDA,

Plaintiff,

vs.

CASE NO.: 05-2015-CF-039871-AXXX-XX

DANA LYNN LOYD

Defendant.

**AFFIDAVIT IN SUPPORT OF MOTION TO DISQUALIFY JUDGE FOR BIAS OR
PREJUDICE**

I, DANA LYNN LOYD, being first duly sworn, deposes and says:

I

I am the Defendant in the above-entitled case and am acquainted with the facts in this case and have personal knowledge of the matter set forth in this Affidavit.

II

I am informed and believe, and based on such information and belief, allege that the Honorable Robin Lemonidis, the Judge before whom this cause is pending, has a personal bias or prejudice against me.

III

The facts and the reasons for the belief that such bias or prejudice exists are explained in the following:

I run an online publication in which the crux of my stories reveal corruption regarding high powered officials in law enforcement and the judicial system of the Eighteenth Judicial Circuit.

On or about May 23, 2016, this Honorable Court heard my Motion for Contempt against

the State of Florida for violating this Honorable Court's Order in reference to the Confidentiality of this entire case file. This Motion for Contempt alleged that confidentiality was breached when the State Attorney reached out to Attorney Mark Peters, attorney of record for the alleged victim, [REDACTED] family law case with confidential information and that Attorney Peters was supplied with documents from the criminal case that had already been deemed confidential. At this hearing the State denied ever speaking to Attorney Mark Peters, denied issuing documents to Attorney Peters and stated that they only reached out to the alleged victim, [REDACTED] and never to his family law attorney.

This Honorable Court denied said Motion for Contempt by stating she has worked with the State every day for the last year and the State consists of people with ethics and candor and she did not believe that this was an intentional violation of the Court's Order. This Honorable Court further stated that my attorney and I are attempting to passive aggressively harass Mr. [REDACTED]

On or about May 23, 2016, the State Attorney reached out **again** to Attorney Mark Peters and relayed specifics about my criminal case. (See exhibit "A") After this contact was made, my attorney received the attached letter with significant confidential details regarding this matter. I feel that had this been me that violated this Order, I would have been incarcerated.

I do not believe that I will receive a fair and impartial trial.

IV.

This Honorable Court has shown an obvious prejudice towards me. This prejudice will have an inevitable negative impact on my criminal proceedings that are yet to be presented before the Honorable Robin Lemonidis. Her bias will affect how she rules on certain issues throughout my criminal trial. I believe that for the foregoing reason, Judge Robin Lemondis cannot be neutral and impartial in this matter.

WHEREFORE, the Defendant DANA LYNN LOYD prays the Honorable Robin Lemonidis proceed no further in this cause and that another judge be designated in this cause.

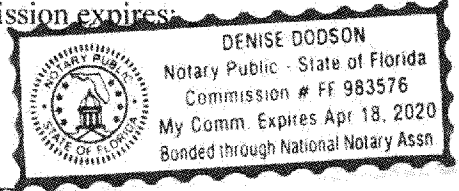
7/26/16
DATE

[Signature]
DANA LYNN LOYD

STATE OF FLORIDA
COUNTY OF BREVARD

SWORN TO AND SUBSCRIBED before me personally appeared DANA LYNN LOYD, who is personally known to me or produced _____, as identification, this 26 day of July, 2016.

[Signature]
Notary Public State of Florida
My Commission expires:



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this Motion and supporting Affidavit signed this 26th day of July 2016 are made in good faith and not for the purposes of delay.

[Signature]
JESSICA L. BURGESS, Esquire



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May 23, 2016

VIA EMAIL

Jessica L. Burgess, Esquire
Law Office of Jessica L. Burgess, P.A.
14E Marina Isles Boulevard
Indian Harbour Beach, FL 32937

In Re: The Former Marriage of: [REDACTED] and [REDACTED]
 n/k/a [REDACTED]
 Case No. [REDACTED]

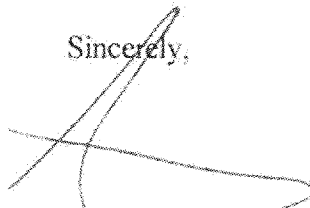
Dear Ms. Burgess:

I am in receipt of your Motion to Intervene, in the above-referenced action. By telephone conversation on May 23, 2016, I confirmed with Assistant State Attorney, Susan Stewart, that the State does not intend to call [REDACTED] as a witness in the prosecution of Dana Loyd. Further, the factual bases for the prosecution of Ms. Loyd is predicated on Ms. Loyd's false reporting that she was a substitute teacher at [REDACTED] school and overheard a conversation that either directly or indirectly suggested [REDACTED] was a victim of sexual abuse.

Since Ms. Loyd is not a substitute teacher and overheard no conversation at [REDACTED] school, the bases for the charges are not something [REDACTED] can testify about. The School Board's records substantiate Ms. Loyd was not a substitute teacher on the day she claims she overheard a conversation.

If Ms. Loyd, you or [REDACTED] have some other agenda, I expect consideration of this request to withdraw your Motion to Intervene will not be well received. The consequences for pursuing a motion not supported by the law or the facts should already be well known by you and your client.

Sincerely,



Mark S. Peters

MSP/jp

cc: Client

Exhibit B