

ARIZONA SUPERIOR COURT, PIMA COUNTY

HON. D. DOUGLAS METCALF

CASE NO. CR20251060-001
CR20251454-001

DATE: September 09, 2026

STATE OF ARIZONA
Plaintiff,

vs.

LANE JEFFERY MYERS (-001)
Defendant.

R U L I N G

IN CHAMBERS

Defendant has filed a “Motion to Disqualify Judge” asking this Division to disqualify itself. The motion does not cite or rely on Rule 10.1 as the basis for the motion, nor does it include an affidavit, which Rule 10.1 requires. Rather, Defendant cites Judicial Ethics Rule 2.11, which provides: “A judge shall disqualify himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned....”

A motion filed under Rule 10.1 is decided by the Presiding Judge, while a motion filed under Judicial Ethics Rule 2.11 places the onus on the assigned judge to decide whether he should recuse him or herself where his/her impartiality might reasonably be questioned. Because the present motion is as to the latter, it is appropriate for this Division to decide whether to recuse itself. The Supreme Court approved this approach in *In re Aubuchon*, 233 Ariz. 62, 65–66, ¶¶ 11-13, (2013) (When a litigant fails to file the affidavit the change of judge for cause rule requires, but instead requests the assigned judge to recuse him or herself under Judicial Ethics Rule 2.11, it is appropriate for the assigned judge to decide the issue.).

The basis for Defendant’s recusal motion is that this Division is a member of the Arizona Supreme Court Task Force on the Rules of the Supreme Court, having been appointed to that committee by the Chief Justice in Administrative Order 2025-89. The purpose of the Task Force is to “restyle the current Rules of the Supreme Court of Arizona, and ... make limited substantive changes to those rules....” (parenthetical language omitted).

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Defendant previously acknowledged during a court hearing that he was aware of this Division's participation in the Task Force.

At its recent September 3, 2026 public meeting, the Task Force heard a presentation from a staff member with the Arizona Administrative Office of Courts about Rule Petition R-26-0003. That rule petition seeks to rewrite Supreme Court Rules 122 and 122.1, which concern cameras and portable electronic devices in the courtroom and courthouse. At the meeting, the Task Force voted to approve a reply to be filed with the Supreme Court in support of the Rule Petition. The Supreme Court is expected to consider the Rule Petition at its December 2026 Rules Agenda.

Two individuals spoke at the September 3 public meeting (by audio) during the call to the public: Joey Paine and Jason Adam Jensen. Both Mr. Paine and Mr. Jensen have previously asked for permission to either live stream or record proceedings in Defendant's pending cases. When Mr. Paine submitted his written request to record the proceedings in these cases, he did so on behalf of the "Phoenix Times." Later, during court hearings on March 19 and 20, 2025, Defendant admitted that the "Phoenix Times" is a "doing business as" name for his company, Freedom Productions, LLC. A recent review of the Arizona Corporation Commission website confirms that Defendant is a member and manager of Freedom Productions, LLC, a fact as to which the Court takes judicial notice. As such, Mr. Paine, who spoke at the September 3 public meeting, is associated with Defendant through Defendant's LLC.

The Court denied both Mr. Paine's and Mr. Jensen's requests to record hearings in these cases. Mr. Jensen filed a special action to appeal the denial, which the Court of Appeals denied in 2 CA-SA 20260068.

Both Mr. Paine and Mr. Jensen mentioned Defendant during their remarks to the Task Force at the September 3 meeting. No one else mentioned Defendant during the meeting.

The September 3 public meeting was live streamed. It is unknown whether others listened to the meeting without requesting to speak during the call to the public.

In his motion, Defendant asserts that a conflict exists because the Task Force seeks to amend Supreme Court Rules 122 and 122.1 based on his (*i.e.* Defendant's) conduct. To the best of this Court's knowledge, that is not the case. The misuse of cameras and portable electronic devices in the courtroom and courthouse has been a matter of ongoing statewide concern for many years. For example, the Supreme Court issued an administrative order in 2012 to review the use of wireless mobile technologies in the courtroom. *See* Ariz. Sup. Ct. Admin. Order 2012-22. The Pima County issued an administrative order as to cameras in the courtroom as far back as 2013. *See* Pima Co. Super. Ct. Admin. Order 2013-05.

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Moreover, the Court does not recall that Defendant ever personally asked to record proceedings in these cases. Consequently, Defendant has not engaged in the type of conduct (*i.e.* the abusive use of recording court proceedings) the Task Force is addressing in any potential rule change.

Defendant is correct that Matthew Walker, an Assistant Tucson City Prosecutor, and the husband of the victim in these cases, did file his own rule petition in 2025 seeking to amend Supreme Court Rule 122. His petition, R-25-0031, does reference Defendant in a footnote. During its August 2025 Rules Agenda, the Supreme Court referred issues raised in Mr. Walker's petition to the Task Force.

This Division has never discussed any amendments to the Supreme Court Rules with Mr. Walker or heard him give an opinion on any proposed amendments, nor has this Division ever spoken to or communicated with Mr. Walker except for when he has appeared during court proceedings in these cases as the husband of the victim.

Defendant is correct that Mr. Walker testified on behalf of the State in the pending Petition to Revoke hearing. The substance of his testimony was that he discovered YouTube videos that he believes show Defendant violating his probation terms.

Defendant argues that because Mr. Walker filed a rule petition with the Arizona Supreme Court, and that his rule petition referenced Defendant, and that because this Division is a member of a Supreme Court Task Force that is reviewing a separate rule petition, albeit as to a related issue, and that Mr. Walker has testified in this case, the Court's impartiality might reasonably be questioned due to its participation in the Task Force.

Defendant supports his motion with a citation to a 1997 Judicial Ethics Advisory Committee Opinion, 97-02. The question there was whether a municipal judge should recuse himself from a case where one of the attorneys appearing before him in the case was a member of the merit commission that was reviewing his performance. The City Council would then rely on that review in deciding whether to retain the municipal judge. The Judicial Ethics Advisory Committee responded in the affirmative—that the judge should recuse himself to avoid appearance of impropriety. The Committee cited former Judicial Canon 2A that a judge should not “permit others to convey the impression that they are in a special position to influence the judge.” Here, no one has tried to influence this Division in Defendant's pending cases, nor does this Division have any stake in the outcome of these cases. Consequently, Judicial Ethics Advisory Committee Opinion 97-02 is not on point.

Whether the Rules of the Supreme Court should be amended to address concerns about cameras or recording devices in the courtroom has nothing to do with Defendant's cases. Defendant was not charged or convicted as to anything related to filming or recording court proceedings or harassing the victim in court or in

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the courthouse. He was convicted of harassing the victim, and then in the second case for violating an injunction against harassment that enjoined him from harassing the victim. The current issue before the Court is whether Defendant violated the terms of probation by again harassing the victim.

As a member of the Task Force, this Division, along with other judges and attorneys, is working to restyle the Supreme Court Rules, and to make recommendations as to whether substantively amend any of the Rules. Whether Defendant violated his probation has nothing to do with this Division's work on amending the Supreme Court Rules.

It is true that Mr. Walker is both a witness for the State in this case and a person who filed his own rule petition to amend the Supreme Court Rules regarding the use of cameras and portable electronic devices in the courtroom. It is possible that Mr. Walker's rule petition (which is posted on the Supreme Court's publicly available Rules Forum) may be included in the materials that the Task Force has reviewed as to amendments to Supreme Court Rules 122 and 122.1, although this Division does not have a recollection of that. However, matters considered by Task Force are judicial in nature because rule making is a judicial function. *Burney v. Lee*, 59 Ariz. 360, 364 (1942) ("[T]he rule-making power is essentially judicial in its nature."); Ariz. Constitution, Art. 6, § 5(5) ("The supreme court shall have ... [the] [p]ower to make rules relative to all procedural matters in any court."). It is not, as Defendant contends, "extrajudicial."

It is well-settled "that the bias and prejudice necessary to disqualify a judge must arise from an extra-judicial source and not from what the judge has done in his participation in the case." *Smith v. Smith*, 115 Ariz. 299, 303 (App. 1977). To the extent that this Division has been exposed to anything regarding Mr. Walker's rule petition, or has any thoughts about recommending a rule change to Supreme Court Rules 122 and 122.1, it did so in its judicial role of working on court rule changes as a member of the Supreme Court's Task Force. Under *Smith v. Smith*, this cannot create the potential for bias.

Moreover, and importantly, to the best of this Division's recollection, the only time Defendant's name has been mentioned during any Task Force meeting was during comments made by members of the public, at least one of whom is associated with Defendant, during a call to the public at the September 3 meeting. It is well settled that a litigant (in this case through proxies) cannot claim bias or prejudice when "a party acts deliberately and with an ulterior motive in such a way as to cause the judge to become biased and prejudiced against that party...." *Id.* To allow a litigant to cause a judge to have to recuse himself based on the litigant's own conduct (through proxies) would "severely hamper[] and thwart[]" "the orderly administration of judicial proceedings." *Id.*

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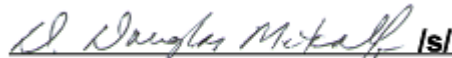
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Defendant has not met his burden to show bias or prejudice by producing evidence of actual bias that goes beyond mere speculation, as Arizona law requires. *State v. Macias*, 249 Ariz. 335, 342, ¶ 22 (App. 2020). (“To rebut the presumption of judicial impartiality, the challenging party must show actual bias; mere speculation about bias is not sufficient.”) (internal quotation marks omitted). The Court will not recuse itself due to its participation in the Arizona Supreme Court Task Force on the Rules of the Supreme Court because such participation does not call into question whether its impartiality might reasonably be questioned in the unrelated revocation of probation proceedings in these two cases.

Accordingly,

IT IS ORDERED that this Court will not disqualify itself under Judicial Ethical Rule 2.11.


D. DOUGLAS METCALF
(ID: 283a6ece-7282-4ce5-bf0c-eb9be7227bab)

cc: Mark R. Resnick, Esq.
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