

IN THE STATE COURT OF LOWNDES COUNTY

STATE OF GEORGIA

STATE OF GEORGIA,

VS.

JANE DOE,

Defendant.

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DOCKET NO. 2010SC1234

**CHARGES: THEFT OF LOST OR MISLAID
PROPERTY**

ORDER DENYING DEFENDANT'S MOTION TO RECUSE

Defendant, JANE DOE, filed a Motion to Recuse on July 6, 2010. After an immediate review as required by Uniform Superior Court Rule 25.3, it is the determination of this Court that the motion and accompanying affidavit are not legally sufficient to warrant recusal.

Uniform Superior Court Rule 25.2 demands that the affidavit supporting a motion to recuse must show with specificity any "extra-judicial conduct or statements" showing bias or "prejudice toward the moving party in particular" or "a systematic pattern of prejudicial conduct." Ms. Doe's affidavit provides no specific conduct or statements which demonstrate bias or prejudice. Rather, it merely asserts as its basis that "Judge Edwards was present in the court room next door when the alleged incident took place."

Further, Defendant opines in paragraph 6 of her affidavit that, "Judge Edwards presumably has knowledge of the reason why the solicitor dismissed the case against Mr. Doe. Judge Edwards was the presiding judge when the alleged incident took place. I feel like Judge Edwards may have knowledge of the facts of this case, and therefore [*sic*] unable to sit impartially." Uniform Superior Court Rule 25.2 clearly states that "[a]llegations consisting of bare conclusions and opinions shall not be legally sufficient to support the motion or warrant further proceedings."

Assuming that every statement in the Defendant's affidavit is true, there is no allegation that I have any knowledge of the case as prohibited by the Georgia Code of Judicial Conduct 3E(1)(a). See also the "Terminology" section, which defines "knowledge" as "actual knowledge of the fact in question."

Penney v. State, 157 Ga. App. 737, 278 S.E.2d 460 (1981) indicates that it is as much the duty of a judge not to grant the motion to recuse when the motion is legally insufficient as it is to recuse when the motion is meritorious. The simple filing of an affidavit does not automatically disqualify a judge. See also, Gould v. State, 273 Ga. App. 155 (2005); Crosbie v. State, 304 Ga. App. 613 (2010).

Accordingly, Defendant's Motion to Recuse is DENIED.

SO ORDERED, this _____ day of July, 2010.

JOHN K. EDWARDS, JR., JUDGE
STATE COURT OF LOWNDES COUNTY

cc: Solicitor-General
Defendant's Counsel