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Clerk of the
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs September 30, 2026

KATHRYN MARCH v. DON DANIEL MARCH

Appeal from the Chancery Court for Knox County
No. 210523-3 Christopher D. Heagerty, Jr., Chancellor

No. E2026-01515-COA-T10B-CV

This is an accelerated interlocutory appeal as of right. The petitioner seeks review of the trial court's denial of his motion for recusal. Discerning no error upon our review of the petition for recusal appeal, we affirm.

Tenn. Sup. Ct. R. 10B Interlocutory Appeal as of Right;
Judgment of the Chancery Court Affirmed; Case Remanded

JOHN W. MCCLARTY, P.J., E.S., delivered the opinion of the Court, in which J. STEVEN STAFFORD P.J., W.S., and JEFFREY USMAN, J., joined.

Luke Aaron Shipley, Knoxville, Tennessee, for the appellant, Don Daniel March.

Sarah Easter, Knoxville, Tennessee, for the appellee, Kathryn March.

OPINION

I. BACKGROUND

The underlying litigation between appellant Don Daniel March and appellee Kathryn March involves a child custody determination by the Knox County Chancery Court ("trial court"). This appeal is Mr. March's second Rule 10B recusal appeal in this case stemming from the May 14, 2025 hearing before the trial court. Our prior Opinion is included in the instant appellate record. In that Opinion, we outlined the facts as follows:

We note that Mr. March has hearing loss, and that the trial court provided the Communication Access Realtime Translation ("CART") system as an accommodation during the [May 14, 2025] hearing. Unfortunately, the CART system malfunctioned several times during the hearing such that the

recorded audio was “inaudible” or “indiscernible.” During the hearing, Dr. Shannon Wilson, Ph.D. testified concerning her custodial evaluation findings. Based on her determination that Mr. March had mental health issues that caused him “to label anything that makes him uncomfortable as being abusive and to view the normal expression of emotion as being dysregulated,” Dr. Wilson recommended that Ms. March be designated the primary residential parent with sole decision-making authority. Specifically, Dr. Wilson opined that Mr. March “passed those beliefs to the children, who have . . . come to view [Ms. March’s] normal and appropriate parenting as interacting and abusive.” Also at this hearing, Mr. March called the parties’ oldest child, Miriam, to testify on his behalf. At the time, Miriam was 19 years old and had been diagnosed with autism. During cross-examination, the trial court interposed its own questions; however, after four questions from the trial court, Miriam claimed to be experiencing a panic attack. She was allowed to leave the witness stand and never resumed her testimony. On May 19, 2025, the trial court entered an order adopting Dr. Wilson’s custodial evaluation in full.

On July 2, 2025, Mr. March filed a “Motion to Produce CART Transcripts.” On July 28, 2025, Mr. March filed a “Motion to Reconsider Due to Inadequate ADA Accommodations and Request for a New Hearing Pursuant to Tenn. R. Civ. P. 59.04” (“Motion to Reconsider”). These motions were predicated on Mr. March’s allegations that the trial court violated the Americans with Disabilities Act (“ADA”) and that the trial court committed evidentiary and procedural errors during the custody hearing. In the Motion to Produce CART Transcripts, Mr. March asked for the immediate certification of the CART transcripts “as the official record for the hearing, or [for the trial court to] immediately vacate” its order from the custody hearing. On July 17, 2025, the trial court entered its order on the Motion to Produce CART Transcripts, wherein it found that the recreation of the CART transcripts was “replete with errors, omissions, and internal comments regarding the inaudible nature of the testimony.” The trial court denied Mr. March’s request to certify the CART transcripts as the official transcript of the hearing but ordered the transcripts to be released to him.

Kathryn March v. Don March, No. E2025-01797-COA-T10B-CV, at *1–2 (Tenn. Ct. App. Dec. 9, 2025).¹

¹ No Westlaw citation is available.

On October 9, 2025, Mr. March filed his first motion to recuse the trial judge. On October 24, 2025, the trial court entered an order denying it. In that order, the trial court noted that “[n]o objection to the accommodation provided, or to the functioning thereof, was lodged by [Mr. March] or his attorney during the hearing.” The trial court found that the purported inadequacies of the ADA accommodation were raised nearly two months post-hearing and after the entry of an order that was unfavorable to Mr. March. The trial court explained:

[T]here have not been any allegations or suggestions heretofore that [Mr. March’s] attorney did not hear the statements, made at the hearing, regarding the failures of the CART services [Mr. March] now relies upon those very statements in his assertion that the accommodations were inadequate. In other words, there have been no suggestions that [his] attorney was not aware of the failures of the CART services in real-time at the hearing in this matter.

The trial court reserved ruling on Mr. March’s Motion to Reconsider. On November 14, 2025, Mr. March filed the first Rule 10B appeal in this Court. Finding no evidence of any bias that would require recusal under Tennessee Supreme Court Rule 10B, we affirmed the trial court’s judgment on December 9, 2025. *Id.*

As stated in the instant petition for recusal appeal, “[a]fter the first recusal proceeding concluded, [Mr. March] commenced a federal civil-rights action in the United States District Court for the Eastern District of Tennessee concerning the disability-accommodation and CART-record controversy surrounding the May 14 [, 2025] hearing and its aftermath.” Mr. March filed the federal court complaint pro se on July 21, 2026, and named as defendants the State of Tennessee, including its instrumentality the Tennessee Administrative Office of the Courts, Knox County, Loudon County, and the trial judge, Chancellor Heagerty, in his individual capacity. Mr. March’s complaint filed in federal court alleges:

Claims against Defendant Heagerty in his individual capacity are confined to a single narrow subject — the custodial, pre-adjudication withholding of the caption files in response to records requests, an administrative rather than judicial function — and this Complaint is pleaded so that every other claim stands independently of that count.

In that same complaint, Mr. March acknowledges that “an order [of the trial court] finally released” the caption files he sought. Service has not been perfected on the defendants named in the federal District Court action. As of the filing of the federal court complaint, the Motion to Reconsider remained pending before the trial court.

On September 2, 2026, Mr. March filed his second motion to recuse the trial judge. In it, he stated that he “has now commenced a federal civil-rights action arising from the disability accommodation and CART-record controversy surrounding the May 14, 2025, hearing and its aftermath. Chancellor Heagerty is an individual defendant in that action. At the same time, Defendant’s Motion to Reconsider Due to Inadequate ADA Accommodations and Request for a New Hearing remains pending before this Court.” Mr. March argued that the trial judge’s recusal was required so that his pending Motion to Reconsider and the remaining issues in the case could be “adjudicated by a judicial officer who is not simultaneously an individual defendant in federal litigation arising from substantially overlapping operative events.”

The September 2 second motion to recuse the trial judge was supported by an unsigned declaration. By order entered September 9, 2026, the trial court found that the declaration filed with Mr. March’s second motion to recuse “is neither signed, notarized, or otherwise verified by declarant Don Marsh [sic]. As such, the statements of the declarant do not comply with the requirements of Rule 10B, and, therefore, will not be considered by this Court in ruling upon the instant motion.” The trial court’s decision to deny the September 2 second motion to recuse was supported by case law explaining that failure to strictly comply with Rule 10B section 1.01 has been viewed repeatedly by courts as grounds for waiver or denial of a motion to recuse. The trial court concluded that Mr. March’s failure to comply with the procedural requirement to support the second motion to recuse “by an affidavit under oath or a declaration under penalty of perjury on personal knowledge and by other appropriate materials” combined with “the repetitive nature of his ‘new’ arguments” warranted waiver of any asserted grounds for recusal and denial of the second motion to recuse. *See* Tenn. Sup. Ct. R. 10B § 1.01.

On September 11, 2026, Mr. March acknowledged that his second motion to recuse was procedurally deficient, argued inadvertence for the mistake, renewed that motion, and moved the trial court to alter or amend its September 9 order. By order entered September 22, 2026, the trial court declined to alter or amend its September 9 order and denied renewal of Mr. March’s second motion to recuse. The trial court explained that this Court previously warned Mr. March *in this same case* about the consequences of not following Rule 10B’s mandatory requirements. *See March v. March*, No. E2025-01797-COA-T10B-CV, at *2–3. Additionally, citing case law, the trial court thoroughly explained why strict compliance with Rule 10B is required. In the alternative, the trial court concluded:

Moreover, even if the Court were to accept the later signed Declaration of Mr. March, the Court is of the opinion that his “new” federal lawsuit against the undersigned would not prompt a reasonable, disinterested person to believe that the judge’s impartiality might reasonably be questioned. It is

Mr. March's position that his filing of a federal court action against the undersigned should be viewed in conjunction with his previous judicial complaint and the first motion to recuse as an amalgam, to reach the conclusion that the undersigned is somehow unable to sit as the finder of fact in this action.

Mr. March timely filed this appeal.

II. DISCUSSION

We have reviewed Mr. March's Rule 10B petition and its supporting documents filed September 29, 2026. Upon review, we have determined that an answer, additional briefing, and oral argument are unnecessary to our disposition because the record provided by Mr. March does not demonstrate error by Chancellor Heagerty as to the denial of Mr. March's second motion for recusal. As such, we have elected to act summarily on this appeal in accordance with sections 2.05 and 2.06 of Rule 10B. *See* Tenn. Sup. Ct. R. 10B, § 2.05 ("If the appellate court, based upon its review of the petition for recusal appeal and supporting documents, determines that no answer from the other parties is needed, the court may act summarily on the appeal. Otherwise, the appellate court shall order that an answer to the petition be filed by the other parties. The court, in its discretion, also may order further briefing by the parties within the time period set by the court."); § 2.06 ("An accelerated interlocutory appeal shall be decided by the appellate court on an expedited basis. The appellate court's decision, in the court's discretion, may be made without oral argument.").

Without question, "[t]he right to a fair trial before an impartial tribunal is a fundamental constitutional right." *Bean v. Bailey*, 280 S.W.3d 798, 803 (Tenn. 2009) (quoting *State v. Austin*, 87 S.W.3d 447, 470 (Tenn. 2002), *abrogated on other grounds by State v. Miller*, 638 S.W.3d 136 (Tenn. 2021)); *see also* Tenn. Const. Art. VI, § 11. Rule 2.11(A) of the Code of Judicial Conduct as set forth in Rule 10 of the Rules of the Supreme Court of Tennessee requires a judge to recuse himself or herself "in any proceeding in which the judge's impartiality might reasonably be questioned." *See also Smith v. State*, 357 S.W.3d 322, 341 (Tenn. 2011) (Recusal is required, even if a judge subjectively believes he or she can be fair and impartial, whenever "'the judge's impartiality might be reasonably questioned because the appearance of bias is as injurious to the integrity of the judicial system as actual bias.'" (quoting *Bean*, 280 S.W.3d at 805)). "A motion to recuse should be granted when judges have any doubt about their ability to preside impartially in a case or when 'a person of ordinary prudence in the judge's position, knowing all of the facts known to the judge, would find a reasonable basis for questioning the judge's

impartiality.’” *Boren v. Hill Boren, PC*, 557 S.W.3d 542, 548 (Tenn. Ct. App. 2017) (quoting *Davis v. Liberty Mut. Ins. Co.*, 38 S.W.3d 560, 564 (Tenn. 2001)).

The terms “bias” and “prejudice” generally “refer to a state of mind or attitude that works to predispose a judge for or against a party.” *Alley v. State*, 882 S.W.2d 810, 821 (Tenn. Crim. App. 1994). However, “[n]ot every bias, partiality, or prejudice merits recusal.” *Id.* “Adverse rulings by a trial court are not usually sufficient grounds to establish bias.” *Id.* In fact, “[r]ulings of a trial judge, even if erroneous, numerous and continuous, do not, without more, justify disqualification.” *Id.* “To disqualify, prejudice must be of a personal character, directed at the litigant, ‘must stem from an extrajudicial source and result in an opinion on the merits on some basis other than what the judge learned from . . . participation in the case.’” *Id.* In other words, “if the bias is alleged to stem from events occurring in the course of the litigation of the case, the party seeking recusal has a greater burden to show bias that would require recusal, *i.e.*, that the bias is so pervasive that it is sufficient to deny the litigant a fair trial.” *McKenzie v. McKenzie*, No. M2014-00010-COA-T10B-CV, 2014 WL 575908, *3 (Tenn. Ct. App. Feb. 11, 2014).

We review a trial court’s ruling on a motion for recusal *de novo*. Tenn. Sup. Ct. R. 10B § 2.01. “The party seeking recusal bears the burden of proof.” *Williams ex rel. Rezba v. HealthSouth Rehab. Hosp. N.*, No. W2015-00639-COA-T10B-CV, 2015 WL 2258172, at *5 (Tenn. Ct. App. May 8, 2015). We will not consider additional allegations of bias raised on appeal when not included in the initial motion for recusal filed in the trial court. *See Malone v. Malone*, No. W2023-00843-COA-T10B-CV, 2023 WL 8457951, at *14 (Tenn. Ct. App. Dec. 6, 2023); *McKenzie*, 2014 WL 575908, at *6 n.3. “In a Tennessee Supreme Court Rule 10B appeal, the only order we may review is the trial court’s order that denies a motion to recuse. Pursuant to the rule, we may not review the correctness or merits of the trial court’s other rulings.” *Duke v. Duke*, 398 S.W.3d 665, 668 (Tenn. Ct. App. 2012). Accordingly, the sole issue before this Court is whether the trial court erred in denying Mr. March’s second motion for recusal. *Williams*, 2015 WL 2258172, at *5.

Here, Mr. March reasserts an argument like the one this Court rejected in this action’s previous recusal appeal. In his first motion to recuse the trial judge, Mr. March pointed to the fact that he and his daughter each filed a judicial complaint against Chancellor Heagerty before the Tennessee Board of Judicial Conduct. *March*, No. E2025-01797-COA-T10B-CV, at *6. The complaint had been docketed but not assigned to an investigator. *Id.* Mr. March’s Motion to Reconsider was pending before the trial court. *Id.* at *2. Mr. March contended that those facts “demonstrate[d] at a minimum the appearance of bias and further reveal[ed] the Chancellor’s personal involvement in adversarial proceedings instigated by [Mr. March] and his daughter in another forum” and that a “reasonable observer” would determine that the trial judge could not fairly preside over the case. *Id.* We credited the trial court’s conclusion that:

[B]ased on Tennessee case law, [] “a judge need not recuse himself merely because a litigant has filed a judicial complaint” against him. *See Adams* [v. *Dunavant*], 674 S.W.3d [871,] 879 [Tenn. 2023] (“A trial judge has a duty to serve unless the proponent establishes a factual basis warranting recusal.”); *Moncier v. Bd. of Pro. Resp.*, 406 S.W.3d 139, 162 (Tenn. 2013) (“Not even the stricter judicial disqualification standards require recusal merely because a litigant dissatisfied with a judge presiding over his or her lawsuit files a separate lawsuit against the judge.”).

Id. at *10. Likewise, in his second motion to recuse which is the subject of this appeal, Mr. March pointed to the facts that his Motion to Reconsider remained pending while Chancellor Heagerty was named an individual defendant in Mr. March’s federal court complaint, and that both the motion and the still-unserved federal court complaint concern what happened with the CART system at the May 14, 2025, hearing. He argued that, consequently, a reasonable person could question Chancellor Heagerty’s impartiality, so recusal was required.

“Impartiality concerns involve a judge’s personal bias or prejudice against a litigant, not a judge’s general opinion about the legal or social issues involved in a pending case.” *Davis v. Tenn. Dep’t of Emp. Sec.*, 23 S.W.3d 304, 313 (Tenn. Ct. App. 1999) (Order on Petition for Rehearing). Again, the party moving for recusal has the burden of proof. *Adkins v. Adkins*, No. M2021- 00384-COA-TIOB-CV, 2021 WL 2882491, at *4 (Tenn. Ct. App. July 9, 2021). Mr. March’s claim that Chancellor Heagerty cannot continue to preside impartially over the parties’ custody case requires “some evidence that would prompt a reasonable, disinterested person to believe that the judge’s impartiality might reasonably be questioned.” Having studied the record, we find no such evidence. As Mr. March acknowledges, a lawsuit against the trial judge does not automatically require recusal. *See, e.g., McCurry v. McCurry*, No. E2024-01719-COA-T10B-CV, 2025 WL 18672, at *2 (Tenn. Ct. App. Jan. 2, 2025) (collecting cases). “To allow a party to force recusal by the filing of a civil complaint against the trial judge ‘would thwart the administration of justice and encourage the filing of frivolous lawsuits against judges.’” *Id.* (quoting *Gillard v. Nw. Mem’l Hosp.*, 143 N.E.3d 213, 225 (Ill. Ct. App. 2019)).

Upon review of the petition for recusal appeal and all supporting exhibits, we find no basis upon which to conclude that a person of ordinary prudence in the trial judge’s position, knowing all of the facts known to him, would find a reasonable basis for questioning the trial judge’s impartiality. *See Davis*, 38 S.W.3d at 564; Tenn. Sup. Ct. R. 10, RJC 2.11(A). With the foregoing considerations in mind, we affirm the September 9 and September 22, 2026, orders denying Mr. March’s second motion for recusal.

III. CONCLUSION

We affirm the trial court's September 9 and September 22, 2026, orders. Mr. March's October 14, 2026, motion to stay trial court proceedings pending Rule 10B appeal is respectfully denied. The case is remanded for further proceedings as necessary and consistent with this opinion. Costs of the appeal are taxed to the appellant, Don Daniel March.

s/ John W. McClarty
JOHN W. MCCLARTY, JUDGE