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Clerk of the
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs July 6, 2026

IN RE MADDEX B., ET AL.

Appeal from the Juvenile Court for Smith County
No. 2023-DN-11 Branden Bellar, Judge

No. M2026-01001-COA-T10B-CV

This is an accelerated interlocutory appeal from the denial of a motion for recusal of the trial judge. We vacate and remand for entry of an order either providing the grounds upon which the trial judge denies the motion or granting the motion.

**Tenn. S. Ct. R. 10B Interlocutory Appeal as of Right; Judgment of the Juvenile
Court Vacated and Remanded**

CARMA DENNIS MCGEE, J., delivered the opinion of the court, in which THOMAS R. FRIERSON, II, and W. NEAL MCBRAYER, JJ., joined.

Hector Antonio Figueroa, Jr., Gordonsville, Tennessee, pro se.

OPINION

I. FACTS & PROCEDURAL HISTORY

It appears, from the limited record provided to this Court, that this appeal arises out of a dependency and neglect case. The pro se appellant, Hector Antonio Figueroa, Jr., filed a motion for recusal of the trial judge on May 4, 2026. The motion was supported by an attached declaration of Mr. Figueroa made under penalty of perjury pursuant to Tennessee Rule of Civil Procedure 72. The recusal motion stated that it was “not based merely on disagreement with a single ruling or on dissatisfaction with the outcome of a hearing” but rather was “based on the cumulative appearance of partiality created by a continuing pattern in which filed motions and pleadings have allegedly remained unresolved, have not been promptly addressed by written order, or have not been accompanied by written grounds and lawful and legal basis sufficient to permit meaningful review.” Mr. Figueroa alleged that some matters “have continued to move forward while prior filings remain

unresolved, creating the appearance that one side's requested relief may proceed while Respondent's filings await written disposition." He asserted that these unresolved matters, when "viewed together," could cause a reasonable person to question whether the tribunal remained neutral. He cited a "broader appearance created by repeated non-rulings, lack of written explanations, and further action in the case while those issues remain pending." Mr. Figueroa acknowledged his pro se status and claimed that "unresolved pro se motions, notices, objections, and requests for written rulings should be identified on the record and addressed by written order rather than overlooked, narrowed by hyper-technical construction, or functionally bypassed while the case proceeds." He provided a list of what he claimed to be "unresolved motions, pleadings, notices, and requests below as part of the objective basis for this motion," which showed a dozen items that allegedly remained unresolved and were filed between December 15, 2025, and March 15, 2026.

On June 10, 2026, the juvenile court entered an order summarily denying the recusal motion, with the following explanation:

1. The defendant, Hector Figueroa, did not timely file his Motion for Recusal. This matter began on September 8, 2023, and there have been 17 proceedings prior to this Motion for Recusal without this matter being raised.
2. The defendant, Hector Figueroa, has no basis at law or equity raised that would cause the Court to recuse himself.
3. The defendant, Hector Figueroa, has filed no supporting affidavit as required by Tenn. Supreme Court R[u]le 10B §1.01.

Mr. Figueroa timely filed this accelerated interlocutory appeal and also filed a motion for a stay pending the outcome of the appeal.

II. DISCUSSION

Judicial recusal is governed by Tennessee Supreme Court Rule 10B. This Court reviews a trial court's decision on a motion for recusal under a *de novo* standard of review. Tenn. Sup. Ct. R. 10B § 2.01. The only issue we may consider in a Rule 10B appeal is whether the trial judge should have granted the motion for recusal. *Elseroad v. Cook*, 553 S.W.3d 460, 462 (Tenn. Ct. App. 2018); *Boren v. Hill Boren, PC*, 557 S.W.3d 542, 546 (Tenn. Ct. App. 2017). We do not review the merits or correctness of the trial court's other rulings. *Duke v. Duke*, 398 S.W.3d 665, 668 (Tenn. Ct. App. 2012).

We first consider the trial court's conclusion that "[t]he defendant, Hector Figueroa, has filed no supporting affidavit as required by Tenn. Supreme Court R[u]le 10B §1.01." Rule 10B provides that a recusal motion "shall be supported by an affidavit under oath *or* a declaration under penalty of perjury on personal knowledge and by other appropriate materials." Tenn. Sup. Ct. R. 10B § 1.01 (emphasis added). "When a petitioner fails to support a motion with this mandatory affidavit or declaration under penalty of perjury, we

have repeatedly held that the request for recusal was waived.” *Moncier v. Wheeler*, No. E2020-00943-COA-T10B-CV, 2020 WL 4343336, at *3 (Tenn. Ct. App. July 28, 2020). Mr. Figueroa’s motion was not accompanied by an affidavit, but he did attach a declaration stating that he “declare[d] under penalty of perjury on personal knowledge” that the following was true and correct. Thus, due to his submission of a declaration, the absence of an affidavit was not fatal, and the motion was not subject to dismissal on that basis. *See, e.g., State v. Loreda*, No. W2023-00088-CCA-R3-CD, 2024 WL 912486, at *6 (Tenn. Crim. App. Mar. 4, 2024) (noting that the appellant submitted a declaration under penalty of perjury in accordance with Tennessee Rule of Civil Procedure 72, and “[t]herefore, we disagree with the State’s argument that the recusal issue is waived because the motion to recuse was not supported by affidavit”).¹

The next basis for dismissal cited by the trial court was that the recusal motion was not timely filed. The order denying the motion simply states, “This matter began on September 8, 2023, and there have been 17 proceedings prior to this Motion for Recusal without this matter being raised.” Rule 10B provides that a written motion for recusal must be filed “promptly after a party learns or reasonably should have learned of the facts establishing the basis for recusal.” Tenn. Sup. Ct. R. 10B § 1.01. “Thus, a recusal motion ‘should be filed when the facts forming the basis of that motion become known.’” *DiDomenico v. DiDomenico*, No. M2024-00476-COA-R3-CV, 2025 WL 3124463, at *2 (Tenn. Ct. App. Nov. 7, 2025) *perm. app. denied* (Tenn. Feb. 25, 2026) (quoting *Bean v. Bailey*, 280 S.W.3d 798, 803 (Tenn. 2009)). Mr. Figueroa’s recusal motion complained that matters he filed between December 15, 2025, and March 15, 2026, remained unresolved. He filed his recusal motion on May 4, 2026. Given the basis for Mr. Figueroa’s recusal motion, and when he “learned of the facts establishing the basis for recusal,” his motion is not rendered untimely simply because the case “began on September 8, 2023, and there have been 17 proceedings prior to this Motion[.]”

Finally, we note the trial court’s third finding in its order denying the recusal motion – “The defendant, Hector Figueroa, has no basis at law or equity raised that would cause

¹ Rule 72 of the Tennessee Rules of Civil Procedure provides:

Whenever these rules require or permit an affidavit or sworn declaration, an unsworn declaration made under penalty of perjury may be filed in lieu of an affidavit or sworn declaration. Such declaration must be signed and dated by the declarant and must state in substantially the following form: “I declare (certify, verify or state) under penalty of perjury that the foregoing is true and correct.”

Tenn. R. Civ. P. 72. This Court has observed, however, that “the requirement in Rule 10B that a motion seeking judicial recusal be accompanied by ‘an affidavit under oath or a declaration under penalty of perjury’ is not a requirement of the Tennessee Rules of Civil Procedure such that any of the content requirements of Rule 72 for an unsworn declaration under penalty of perjury would be binding on an affidavit or declaration filed in support of a Rule 10B motion.” *Beaman v. Beaman*, No. M2018-01651-COA-T10B-CV, 2018 WL 5099778, at *13 (Tenn. Ct. App. Oct. 19, 2018).

the Court to recuse himself.” This summary denial of the recusal motion on its merits does not provide any explanation for the trial court’s decision. It does not mention or explain the allegation by Mr. Figueroa that his pro se filings remain unresolved while other matters continue to move forward.

“Section 1.03 of Rule 10B requires every judge who denies a motion for recusal to ‘state in writing the grounds upon which he or she denies the motion.’” *Elseroad*, 553 S.W.3d at 468 (quoting Tenn. Sup. Ct. R. 10B § 1.03)). “Rule 10B specifically states that the judge is required to state in writing his or her grounds for denying a motion to recuse[.]” *Schmeeckle v. Hamilton Cnty.*, No. E2023-01533-COA-T10B-CV, 2023 WL 8093111, at *6 (Tenn. Ct. App. Nov. 20, 2023). For instance, “if a party contends the trial judge has knowledge of facts or circumstances that occurred outside of the courtroom, the judge is under an affirmative duty to state whether he or she does or does not have knowledge of the alleged facts or circumstances that may require recusal.” *Elseroad*, 553 S.W.3d at 468.

In *Dougherty v. Dougherty*, No. W2020-00284-COA-T10B-CV, 2020 WL 1189096, at *2-3 (Tenn. Ct. App. Mar. 12, 2020), this Court vacated an order denying a recusal motion for failure to comply with Rule 10B because it failed to “make specific findings relative to [the movant’s] allegations.” Specifically, the judge’s order did not “make specific findings about the text allegedly sent by the Trial Court’s Clerk while Father was testifying,” nor did the order “make any findings whatsoever about the allegations that the Clerk has an affiliation with Fayette Academy, which is particularly relevant given that the major dispute in this case involves whether the minor children will attend Fayette Academy or not.” *Id.* at *2. Because the trial judge “made insufficient findings as to his reasoning for denying the motion to recuse as required by Rule 10B, § 1.03,” we vacated and remanded to “allow the Trial Court to make specific findings and rule upon all of the allegations and either grant the motion or state in writing all the grounds upon which the motion is denied.” *Id.* at *3. Likewise, in *Prewitt v. Brown*, No. M2017-01420-COA-R3-CV, 2018 WL 2025212, at *9 (Tenn. Ct. App. Apr. 30, 2018), this Court explained that a trial judge “failed to fulfill his Tenn. Sup. Ct. R. 10B responsibilities when he denied the motion to recuse by simply stating: ‘Plaintiff’s motion for recusal is hereby DENIED.’” The written order was “woefully inadequate” because Rule 10B requires the judge to “state in writing the grounds upon which he or she denies the motion.” *Id.* This Court noted that we could have chosen, among other things, “to remand with instructions for the trial judge to comply with the mandate in Section 1.03, or reverse with instructions for the trial court to grant the motion.” *Id.*

Here, we choose to vacate and remand this matter with instructions for the trial court to “either grant the motion or enter an order that states in writing all the grounds upon which the motion is denied.” *Dougherty*, 2020 WL 1189096, at *1. Given our determination of this appeal, the motion for a stay pending appeal is denied.

III. CONCLUSION

For the aforementioned reasons, the decision of the juvenile court is hereby vacated and remanded. Costs of this appeal are taxed to the appellant, Hector Antonio Figueroa, Jr., for which execution may issue if necessary.

s/ Carma Dennis McGee
CARMA DENNIS MCGEE, JUDGE