

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

FILED

10/12/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. KORTNEY BALL

**Criminal Court for Davidson County
Nos. 2021-B-825; 2024-C-1944**

No. M2026-01560-CCA-T10B-CO

ORDER

This matter is before the Court upon petition of the Defendant, Kortney Ball, for an accelerated interlocutory appeal as of right pursuant to Supreme Court Rule 10B, Section 2. The Defendant seeks review of the trial judge's order denying his motion to recuse. Upon review, and for the reasons stated below, the petition is denied.

Background

The procedural history of the Defendant's two cases is somewhat convoluted. In summary, in case number 2021-B-825 ("825"), following a mistrial in 2024 on the original charge of aggravated assault by strangulation or attempted strangulation (Tenn. Code Ann. § 39-13-102), the Defendant was retried and convicted of domestic assault. The Defendant appealed. *State v. Ball*, No. M2025-01458-CCA-R3-CD, 2026 WL 2675518 (Tenn. Crim. App. Sep. 11, 2026). Finding that the trial court erred in instructing the jury that domestic assault is a lesser-included offense of aggravated assault, this Court reversed the Defendant's conviction and remanded the case to the trial court "for a new trial on any offenses that qualify as lesser-included offenses of aggravated assault by strangulation or attempted strangulation, so long as these lesser-included offenses did not already result in acquittal for the Defendant." *Id.* at *10. The Court's opinion was filed on September 11, 2026. Mandate has not been issued yet, though. Tenn. R. App. P. 42 and 43.

In case number 2024-C-1944 ("1944"), the Defendant was convicted on the two misdemeanor counts charged in the indictment: domestic assault (Tenn. Code Ann. § 39-13-111) and interference with emergency communications (Tenn. Code Ann. § 65-21-117). The trial court sentenced the Defendant to serve six months and eleven months and twenty-nine days in custody, respectively, to be served consecutively. The judgments were filed on July 1, 2026. The Defendant's motion for new trial in case 1944 is still pending.

On September 1, 2026, the Defendant filed a motion to recuse the trial judge. The Defendant's motion was based primarily on the actions of the trial judge regarding his bail throughout the pendency of his two cases. *See* No. M2025-01458-CCA-R3-CD (Orders, Nov. 12, 2025; Apr. 23, 2026); No. M2026-01034-CCA-R8-CO (Order, July 10, 2026). As discussed in those three orders addressing the Defendant's motions for review pursuant to Rule of Appellate Procedure 8, the matter of the Defendant's custody at various times during the pendency of his cases was remanded to the trial court for further review and, ultimately, resolved in accordance with the applicable law. In other words, the trial court ultimately granted the Defendant bail in both cases.

On September 16, 2026, the trial judge denied the motion to recuse. The judge recounted the procedural history of the Defendant's cases, and she recognized she erred at times regarding the matter of the Defendant's release. In denying the motion, the judge concluded in her written order:

The Court has presided over three (3) jury trials and numerous hearings involving the Defendant. The Court has made a multitude of rulings in those matters. At times, the Court has erred, however, none of the Court's errors have resulted from a personal bias toward the Defendant. The Court does not harbor any bias or prejudice toward the Defendant. Furthermore, the Court does not find that a person of ordinary prudence in her position, knowing all of the facts known to the Court, would find a reasonable basis to question her partiality in light of the allegations in the motion. The Court has carefully reviewed all the grounds included in the recusal motion and finds no basis for recusal. The Court is confident that it can preside over these matters fairly and impartially. For these reasons, the Defendant's recusal motion is respectfully DENIED.

Tennessee Supreme Court Rule 10B

Any party seeking disqualification, recusal, or a determination of constitutional or statutory incompetence of a judge of a court of record, or a judge acting as a court of record, shall do so by a written motion filed promptly after a party learns or reasonably should have learned of the facts establishing the basis for recusal. The motion shall be filed no later than ten days before trial, absent a showing of good cause which must be supported by an affidavit. The motion shall be supported by an affidavit under oath or a declaration under penalty of perjury on personal knowledge and by other appropriate materials. The motion shall state, with specificity, all factual and legal grounds supporting disqualification of the judge and shall affirmatively state that it is not being presented for any improper purpose, such as to harass

or to cause unnecessary delay or needless increase in the cost of litigation. A party who is represented by counsel is not permitted to file a pro se motion under this Rule.

Tenn. Sup. Ct. R. 10B, Sec. 1.01. If the trial judge denies the motion, the party may then file a petition for appellate review, as the Defendant has done here. The petition must be filed within twenty-one days of the trial court's order, and the appealing party is required to promptly file a copy of the petition with the trial court clerk and serve all other parties. Tenn. Sup. Ct. R. 10B, Sec. 2.02. Rule 10B, Section 2.03, further requires the petition to include a statement of the issues presented for review, a statement of the relevant facts, a supporting argument requesting specific relief, as well as copies of the motion and all supporting documents filed in the trial court, the trial court's order or opinion, and any other parts of the record necessary for determination of the appeal. If this Court determines, based on the petition and supporting documents, that an answer from any other party is unnecessary, the Court may act summarily on the appeal. Tenn. Sup. Ct. R. 10B, Sec. 2.05. The Court will act summarily on the timely-filed petition at hand.

Standard of Review and Law on Recusal

This Court reviews a trial court's ruling on a motion to recuse under a *de novo* standard of review. Tenn. Sup. Ct. R. 10B, Sec. 2.01. "A judge should grant a motion to recuse when the judge has any doubt as to his or her ability to preside impartially in the 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." *Smith v. State*, 357 S.W.3d 322, 341 (Tenn. 2011) (internal quotation omitted). "Hence, the test is ultimately an objective one since the appearance of bias is as injurious to the integrity of the judicial system as actual bias." *Davis v. Liberty Mut. Ins. Co.*, 38 S.W.3d 560, 564-65 (Tenn. 2001).

A judge's duty to recuse springs from a constitutional source: Article VI, section 11 of the Tennessee Constitution provides that "[n]o Judge of the Supreme or Inferior Courts shall preside on the trial of any cause in the event of which he [or she] may be interested . . ." Our Supreme Court has explained "[t]he purpose of Article 6, § 11 of our Constitution is to insure every litigant the cold neutrality of an impartial court." *Leighton v. Henderson*, 414 S.W.2d 419, 421 (Tenn. 1967). Similarly, the Code of Judicial Conduct requires a judge to perform the duties of his or her office without bias or prejudice. Tenn. Sup. Ct. R. 10, R. 2.3(A). Accordingly, the Code demands that "[a] judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned." *Id.*, R 2.11(A). One such circumstance described by the Code is when "[t]he judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of facts that are in dispute in the proceeding." *Id.*, R. 2.11(A)(1).

“The words ‘bias’ and ‘prejudice’ are central to the determination of whether a recusal should be granted.” *State v. Rimmer*, 250 S.W.3d 12, 38 (Tenn. 2008). “Generally, the terms 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). This Court certainly acknowledges that not every bias, partiality, or prejudice merits recusal. *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.* (internal quotation omitted). Further, “[a]dverse rulings by a trial court are not usually sufficient grounds to establish bias” and “[r]ulings of a trial judge, even if erroneous, numerous and continuous, do not, without more, justify disqualification.” *Id.* (citations omitted). Finally, “[w]hen a trial court’s comments indicate that the judge has prejudged factual issues, Tennessee courts have required disqualification.” *Id.* at 822.

Discussion

Initially, this Court observes the Defendant did not properly serve his petition on the State. Tenn. Sup. Ct. R. 10B, Sec. 2.02. The Defendant served a copy of the petition on the Davidson County District Attorney General’s Office in Nashville. Pursuant to statute, the Office of the Attorney General in Nashville has the exclusive authority to attend to the business of the State in matters before this Court. Tenn. Code Ann. § 8-6-109(b)(2).

Despite that deficiency, and after conducting a *de novo* review based on the material provided by the Defendant, this Court concludes the trial judge did not err in denying the Defendant’s motion to recuse. Again, the thrust of the Defendant’s argument centers on the trial judge’s actions regarding his release during the pendency of his two cases. Although the trial judge erred at times, as she acknowledged in her order, those errors were ultimately corrected through the proper legal process. To that end, and as discussed above, “[r]ulings of a trial judge, even if erroneous, numerous and continuous, do not, without more, justify disqualification.” 882 S.W.2d at 821. The Defendant simply has not identified any actions of the judge that have so pervasively permeated his cases as to warrant recusal. Again, “[t]o 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.* Nothing before this Court, either in the current petition or the records of the previous appeals the Defendant has pursued in his two cases, demonstrates any personal bias against the Defendant. As the trial judge recognized, she has “presided over three (3) jury trials and numerous hearings involving the Defendant” and “made a multitude of rulings in those matters.” However, nothing about those rulings, even the erroneous ones, represents a reasonable basis for questioning the judge’s impartiality.

Conclusion

The Defendant has simply not shown how the trial judge failed to preside over his cases without bias or prejudice. Tenn. Sup. Ct. R. 10, R 2.3(A). Thus, for the reasons stated above, this Court concludes the trial judge did not err in denying the Defendant's motion to recuse. The Defendant's petition is hereby denied. Because the Defendant has failed to establish current proof of indigency, costs are taxed to him. The Clerk shall forward a copy of this order to the trial judge.

Holloway, Easter, Ayers, JJ.