

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

FILED

10/23/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. KYLE SCOTT WALLACE

**Circuit Court for Coffee County
Nos. 50,024; 50,445; 50,487**

No. M2026-01655-CCA-T10B-CO

ORDER

This matter is before the Court upon petition of the Defendant, Kyle Scott Wallace, 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

According to the indictment included in the appendix to the Defendant's petition, he is charged with multiple counts in case number 50,024. He also faces charges in case numbers 50,445 and 50,487, but as he mentions in his petition, "the most noteworthy charges occurred in Case 50,024." The charges in case 50,024 include, among others, five counts of aggravated assault by use or display of a deadly weapon (Tenn. Code Ann. § 39-13-102), one count of aggravated assault against a law enforcement officer (Tenn. Code Ann. § 39-13-116(b)) and two counts of assault against a law enforcement officer (Tenn. Code Ann. § 39-13-116(a)). No victim is identified in any of the charged counts in the indictment in case number 50,024. And although the date is not included in the indictment either, it appears all charges stem from an incident that occurred on January 12, 2025. On that date, five police officers responded to calls for a welfare check on the Defendant. When the officers arrived on scene, the Defendant fled to a residence where he allegedly vandalized the property and assaulted the officers.

On September 1, 2026, the Defendant filed a motion to disqualify the District Attorney General's Office from prosecuting his case. The Defendant argued there is a conflict of interest because the Assistant District Attorney General ("A.D.A.") assigned to the case is involved in a romantic relationship with one of the officers who arrived at the

scene on the night in question. The Defendant claimed in his motion that that officer is one of the unidentified victims in the indictment. He also claimed the A.D.A. “has declined to make any plea offers for” the Defendant.

The State filed a response in opposition on September 16, 2026, the same day of the scheduled hearing on the Defendant’s motion to disqualify. Therein, it acknowledged the fact that the A.D.A. assigned to this case and the officer named in the Defendant’s motion are indeed in a “‘longstanding’ partner relationship.” The State identified in its motion each victim of the various counts in the indictment. However, the officer in question is not one of those victims. Instead, the State acknowledged that officer was at the scene and, thus, merely a witness to the incident. To that end, the State asserted that officer “is not an essential witness to any of the events that occurred in Case 50,024, he is not a victim in any of the charged offenses, he is not a victim in any offenses not charged, and he will not be called as a witness by the State.” The State also asserted that, if the officer in question “was a victim or an essential witness in this prosecution of [the] Defendant, [the] A.D.A. [in question] would not be assigned to prosecute his cases.” The State explained the reason this A.D.A. is assigned to this case is because she prosecuted a prior case involving the Defendant and the practice in that district is that the same A.D.A. is assigned to all cases for an individual defendant.

Because the Defendant was provided with a copy of the State’s response on the day of the hearing on his motion to disqualify, the trial court agreed to continue the hearing until September 30, 2026, to afford the Defendant an opportunity to review it. The Defendant has included the transcript of that hearing in the appendix to his petition. Because the basis of the Defendant’s motion to recuse stems from comments the trial judge made during that brief hearing, the Court hereby quotes the relevant portion of the transcript for context:

[DEFENSE]: No, Your Honor, I’m not ready, because I’m given a however many page document right before we start. I’m just not ready, so I don’t know that I can do this.

THE COURT: All right. What do you say, you want a continuance?

[DEFENSE]: I suppose.

THE COURT: I mean, I read it. I mean, it was filed this morning. It’s not earthshattering. It’s pretty straightforward stuff that should have all been known before the Beard motion was filed. I mean, it’s just basic facts about the case.

[PROSECUTION]: That would be the State's position.

[DEFENSE]: Well, you say it should have all been known, but they don't list any victim names in any of their indictments.

THE COURT: I don't disagree and that can be confusing, but have you asked them which officer which one goes to? I mean, have you asked a basic investigatory question of the 12 indictments, which officer is which? Have you asked them that?

[DEFENSE]: No, I have not.

THE COURT: Okay. It would probably be pretty important information before you accuse a person of being a victim before they're not.

[DEFENSE]: It would probably be important enough to include it in an indictment.

THE COURT: I don't disagree. I don't like that the DA's office does that. They're not required to do that. It causes way more confusion than it needs to. Just put a name in the indictment. I've mentioned that in the past, but I'm not the DA or ADA. I don't disagree, but they could also be clarified pretty quick with a question, because they have to pick. But, I mean, I'm going to give you a continuance on it.

[DEFENSE]: All right.

THE COURT: I don't know. I mean, we're going to - and you're going to have to make - I'm going to - I mean, I was going to strike, because if a lot of what is in there is correct -

[DEFENSE]: Uh-huh. (Affirmative)

THE COURT: What you put in your motion is completely incorrect and not factual like that he's not a victim in the case, that "he" being [the officer in question], not a victim in the case. You said he was a victim in the case, which makes a big difference. Well, it makes a difference. The fact that there was a plea, you said there was no plea offer given. They're saying that's patently not true and there's a plea offer given. Your client would probably be able to know that.

[DEFENSE]: The offer is plead and have a sentencing hearing. I mean, it's not really an offer.

THE COURT: Okay. So, anyway, I'm going to continue it, I guess. When do you want to do it, next two weeks?

[DEFENSE]: I've got to be back on the 30th, so, I guess, that's fine.

THE COURT: And, also, look at the citation, because, I mean, I use Westlaw, too. The cases you cite have big, giant, red flags on them. There's been a new case in 2024 that outlines that resets what the legal standard for this is.

[DEFENSE]: If you're talking about Eady, I mentioned that in my filing.

THE COURT: Sure.

[DEFENSE]: And I say that it doesn't apply to this.

THE COURT: Okay.

[DEFENSE]: And I explain why.

THE COURT: I disagree with that and I think the Supreme Court the basic reading of the case would disagree with that, too.

[DEFENSE]: Eady never mentioned - we'll talk about it later.

THE COURT: Yeah, we can talk about it later. But, anyway, I'll give you a continuance on it. And when is it, the 30th? Yeah, the 30th. We can do it on the 30th. That's fine. I would suggest that you have actual discussions in person with the DA about the case. Figure out what the heck is going on in the case. Figure out who is charged with what, what your guy is alleged to have done. I mean you can initiate plea discussions, too. Like, we can do that.

[DEFENSE]: You say that, but it's been set for trial since before I even got on the case.

THE COURT: I understand, but you still can do it, right? I mean, you know where their office is. You can go over there and talk to them any time. I don't mean to feel like I'm picking on you, [counsel], but, you know, this

case has been pending forever. Two lawyers have worked on it. The Eady case comes out.

[DEFENSE]: Which does not address due process at all.

THE COURT: Sure. And you've not found a single case. You've not cited one, because they don't exist. And then there's the other case from, I'm going blank right now, let me pull it up, about out of west Tennessee when Amy Weirich was prosecuting a guy with a death penalty and they went through a huge 25-page analysis about it about how it's not the role of the Court to do that unless there's an actual conflict that everybody on that side of the V is on the same team and they can be as hard or as mean to somebody as they want to be.

And they're not, you know, arbiters of justice in a big sense. They have a side and they can advocate zealously for that side as long as they don't have an actual true conflict like where they have represented [the Defendant].

The other case you cited was where a judge came down from the bench, became the DA. That's a pretty unique different circumstance, so in the Eady case, Glenn Funk was the DA that represented the actual defendant in something unrelated and that was okay. So, you know, this is not - I read your position. Even without the State's position, I don't think the law supports it. I'll give you a chance to review that and see if you want to clarify anything in there or double down on it.

I mean, it's whatever you want to do, but then we'll just go from there on the 30th. But, again, at this point, I'm not moving the trial date. The motion I think is suspect just on the legal reasoning of it. I don't have the authority. I'm not the BPR.

[The officer in question] is not a victim in the case. I mean, they put that in there under oath that he is not an alleged victim in the case. So, that changes the entire tone of the motion, I would imagine. So, now, it's more of that [the A.D.A.] is in a relationship with someone that works at the police department, right? I think he was at the incident; is that right?

[PROSECUTION]: Yes, Judge.

THE COURT: Okay. So, I don't know what that's got to do with - and if it's all on video, the jury can ferret out the video what they think he did or didn't

do. It don't sound like it's going to take very much witness testimony to say, 12 people of Coffee County watch this video and then if it shows what it shows.

[DEFENSE]: What it looks like is they've - I said it was all police officers are victims and they've taken four out of five and omitted [the officer in question]. And, now, they've substituted citizen Lucky Knott as a victim, and I have no idea offhand exactly who that even is, but I'll look into this. It's just a - you know, I'm not trying to waste your time.

THE COURT: I know.

[DEFENSE]: I'm a little irritated about getting this, like, you know, one minute before we start, but I'll look into this.

[PROSECUTION]: Judge, I would add for [counsel's] benefit, there's several pieces of discovery and CivicDocs have been provided that don't appear to have been accessed that may address some of these questions. So, I encourage him to look through all that

THE COURT: Yeah. I mean, I think they've attached that as well. I think the new system allows you to see what you've looked at or not.

[DEFENSE]: I thought I clicked everything and downloaded it all as one zip file, but I'll double check.

THE COURT: I have no idea. I mean, I think - anyway. All right. We'll reset it on the 30th and we'll hear it out. Again, I'm not prejudging it. You may wow me with a different argument. I read your brief. I looked up into it quite a bit. I think the Eady case does apply and I think if you want to look at it, I'll give you the case.

[DEFENSE]: I mean, the Eady case even applies only (unintelligible} standard of review. It doesn't necessarily mean I'll lose the motion.

THE COURT: Right. It states that the appearance of impropriety standard is completely null and void, doesn't exist and that you have to find a direct conflict of interest in order to even file this motion. And then if you do find a direct conflict of interest, it doesn't disqualify the office is what Eady stands for I think unless I misread it.

[PROSECUTION]: That would be the State's position, Judge.

THE COURT: Yeah, that's what the case explicitly says that BPR changed their rules to completely get rid of that terminology that all of those old cases were - it doesn't exist anymore. The reasonable whatever that says, what is it, reasonable - the appearance of impropriety standard went away when they changed it completely, doesn't exist.

So, an actual conflict of interest can disqualify a district attorney, everybody agrees, but the appearance of impropriety is not good Tennessee law anymore. And there's red flags on every case that cites it.

And then in the case from Memphis goes into a very long discussion (unintelligible) first impression back then about that the prosecutors are not - you know, they're different than judges. They have a different standard. The fact that they're being hard quote, unquote, air quotes "harder on somebody," that's their prerogative. They can do it as long as they don't have a, you know, financial interest in it, you know, things of that nature, the real basic level stuff, which is not the allegation here.

So, I just wish we would focus these cases on the facts of the case, what happened, what didn't happen, rather than all these other issues that seem to always creep up and that never actually go toward guilt or innocence of this. So, all that being said, we'll see you back on the 30th.

On September 28, 2026, the Defendant filed his motion to recuse the trial judge. The Defendant argued the judge had prejudged his motion to disqualify based on certain comments he made during the initial hearing, quoted above. The Defendant highlighted the following comments in support of his motion:

1. "What you put in your motion is completely incorrect and not factual like that he's not a victim in the case, that "he" being [the officer in question], not a victim in the case."
2. "[the officer in question] is not a victim in the case."
3. "So, I just wish we would focus these cases on the facts of the case, what happened, what didn't happen, rather than all these other issues that seem to always creep up and that never actually go toward guilt or innocence of this."
4. "And [criminal prosecutors are] not, you know, arbiters of justice in a big

sense.”

Although the Defendant acknowledged the trial judge stated he was not prejudging the motion, the Defendant alleged the judge suggested he would need to “wow” the judge in order to prevail. Thus, the Defendant argued “a reasonable observer could conclude that the judge has a closed mind about the pending matter.”

On September 30, 2026, the trial judge denied the motion to recuse. The judge issued the following statements in its written order:

. . . In preparation for its docket the court read the filing by the [D]efendant, checked the citations to cases and conducted legal research into the area of the law and the citations of the [D]efendant, and then read the response of the State. The court had no opinion whatsoever regarding the motion prior to taking these steps. After reviewing the filings and legal research the court determined that the Defendant[’s] position generally did not square with the law and was factually inaccurate. Specifically, the Defendant overlooked *State v Eady* and attempted to distinguish in a way that did not make sense. Further the court cited, admittedly in an inarticulate way, to *Pruitt v State* which is an unreported case that dives into the due process claims of [d]efendants when challenging prosecutorial conflict of interests. In its discussion of the issue the court in *Pruitt* cite to numerous authorities from other states and federal courts that hold that Prosecutors are not these neutral “arbiters of justice” but rather zealous advocates that are arguing one side of an adversarial system. The trial court merely summarized this line of authority.

. . . The factual allegations as to who was the victim in the case, which is the crux of the Defendant[’s] Motion, were directly contradicted by the State[’s] filing listing who are the victims in the respective cases. Defense counsel admittedly had done nothing to ascertain the truth of the statement that was the crux of his motion prior to filing the motion through a bill of particulars or by simply asking the prosecution. [FN omitted]. The only two real factual issues of consequence were whether the prosecutor was in a relationship with [the officer in question] which was undisputed, and whether [the officer in question] was a victim in the upcoming trial. The state in its response listed the victims, [the officer in question] was not one of them. They would be barred from prosecuting an assault against [the officer in question] based upon this assertion. [FN: The only other possible factual dispute was whether there had been a plea offer. This fact is wholly irrelevant for the analysis of the motion as a criminal [d]efendant isn’t entitled to a plea offer and therefore

even assuming that's true it did not matter. Further it was admitted that [the officer in question] was a possible witness and therefore undisputed.

. . .

The trial court had no opinion at all regarding the motion until after reading the motion, checking the citations, and reading the response. The court did not make any factual determinations that were in dispute. Following the review of these appropriate judicial sources of information the court formed a general opinion as to the motion and expressed that opinion while still allowing the Defendant to rebut that with additional filings, arguments, citations to cases or other proof if he chose to. This court believes that is the proper role of a judge.

The Defendant filed the instant petition on October 21, 2026. He states that, as of the date of its filing, the trial judge had not yet heard the motion to disqualify. Further, it appears trial is scheduled to commence on Monday, October 26, 2026. The Defendant does not request a stay, however. Tenn. Sup. Ct. R. 10B, sec. 2.04 ("The filing of a petition for recusal appeal does not automatically stay the trial court proceeding. However, either the trial court or the appellate court may grant a stay on motion of a party or on the court's own initiative, pending the appellate court's determination of the appeal."). Because the Court is denying the instant petition, a stay is not necessary.

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

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. The Defendant advances the same argument on appeal as he did in the motion he filed in the trial court, mainly that the trial judge has prejudged his motion to disqualify. The Defendant contends: “But even if a judge may rightly form and announce opinions after hearing argument and evidence, he should not do so beforehand.” The timeline of the events leading to the filing of the motion to recuse is recounted above. In his motion to disqualify, the Defendant expressly stated that “THIS MOTION IS EXPECTED TO BE HEARD SEPTEMBER 16, 2026 AT 1:00 P.M. BEFORE THE HONORABLE WILL LOCKHART, CIRCUIT JUDGE.” The hearing occurred on that date as planned. Obviously, the trial judge was privy in advance to both the Defendant’s motion and the State’s response. Certainly, the judge reviewed those filings before conducting the hearing. Not to have done so would have been derelict. And although the judge stated he “formed a general opinion as to the motion,” he granted a continuance because the Defendant asserted he was unprepared to proceed at that time. The judge did not issue his ruling on September 16, 2026, and expressly stated during the hearing that he was not prejudging the merits of the motion. And though the transcript reflects the judge commented about the content of both the Defendant’s motion and the State’s response, the judge stated in his order denying the motion to recuse that he “did not make any factual determinations that were in dispute.” A reading of the transcript supports that statement.

There is nothing before this Court suggesting the trial judge cannot partially preside over this case. Recusal is not warranted simply because a trial judge is familiar with the facts of a case. *State v. Reid*, 213 S.W.3d 792, 815 (Tenn. 2006). As this Court has recognized, “[a]ny comments made by the trial court must be construed in the context of all the facts and circumstances to determine whether a reasonable person would construe those remarks as indicating partiality on the merits of the case.” 882 S.W.2d at 822. This Court has reviewed the Defendant’s motion to disqualify and the State’s response thereto, which the Defendant attached to his petition. The trial judge’s comments, which the

Defendant highlights in support of his position, clearly stem from the judge's reading of those pleadings and the caselaw cited therein. Contrary to the Defendant's assertion in his petition before this Court, the trial judge has not yet ruled on the motion to disqualify. Again, the judge stated in his order: "Following the review of these appropriate judicial sources of information the court formed a general opinion as to the motion and expressed that opinion while still allowing the Defendant to rebut that with additional filings, arguments, citations to cases or other proof if he chose to. *This court believes that is the proper role of a judge.*" (Emphasis added). This Court agrees. There is simply no objective basis to reasonably question the judge's impartiality in this instance.

Conclusion

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, therefore, denied. Because it appears the trial court declared the Defendant to be indigent, costs are taxed to the State. The Clerk shall immediately notify the trial court clerk and trial judge about the filing of this order.

Holloway, Easter, Ayers, JJ.