

IN THE COURT OF APPEALS OF TENNESSEE
AT JACKSON

Assigned on Briefs October 5, 2026

WILBERT ATKINS, JR. v. CALVIN MCGLOWN

Appeal from the Chancery Court for Fayette County
No. 19393 William C. Cole, Chancellor

No. W2026-01543-COA-T10B-CV

FILED

10/28/2026

Clerk of the
Appellate Courts

Appellant filed this petition for recusal appeal after the trial court denied his motion to recuse. Discerning no reversible error, we affirm the trial court's denial of the motion.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed
and Remanded**

J. STEVEN STAFFORD, P.J., W.S. delivered the opinion of the court, in which ANDY D. BENNETT, J. and JOHN W. MCCLARTY, P.J., E.S., joined.

Calvin McGlown, Memphis, Tennessee, Pro se.

Stephen W. Vescovo, Memphis, Tennessee, for the Appellee, Wilbert Atkins, Jr.

OPINION

I.

This accelerated interlocutory appeal concerns a Motion for Disqualification and Recusal filed by Defendant/Appellant Calvin McGlown ("Appellant") in the Fayette County Chancery Court ("the trial court") on September 10, 2026. The matter began with a 2021 conservatorship proceeding involving allegations against Appellant, which was eventually dismissed after the potential ward's death. In 2025, the decedent's relatives opened the administration of her estate. Then, in the case before us presently, the decedent's estate filed a complaint seeking injunctive relief against Appellant on March 27, 2026. The estate, through its attorney Stephen Vescovo, requested permission to depose Appellant; permission was granted, and the deposition evidently occurred.

The estate also sought a temporary restraining order against Appellant pending

resolution of its request for injunctive relief.¹ The temporary restraining order was set to be heard on September 10, 2026. At the start of the hearing, Appellant’s then-counsel, attorney Matthew Robinson, informed the court that Appellant had just discharged him from the representation. In addition to the notice of termination of the attorney’s services, Appellant had also filed a pro se motion to disqualify and recuse the trial court judge.²

Appellant’s motion stated that it was based “on a serious violation of [his] due process rights and a breach of Tennessee Supreme Court Rule 10, Code of Judicial Conduct Rule 2.9, which strictly prohibits *ex parte* communications.” The motion provided the following factual basis for the trial court’s recusal:

Prior to [Appellant] being legally served with the complaint in the current civil case, and during the dismissal of a related previous case, the presiding Judge engaged in a private, one-sided communication with the [estate’s] attorney. During this communication, the Judge and the opposing attorney improperly reviewed and discussed the current case file (“jacket”) behind closed doors.

Appellant explained that “[b]ecause this discussion occurred outside open court and before [he] had notice or an opportunity to defend himself, the Judge has improperly pre-judged the merits of this case” and that “[t]his bias is actively manifested by the Court’s subsequent approval of an abusive and unnecessary deposition designed to allow the opposing attorney to discover or rely upon fabricated evidence.” He asserted that “[a] secret meeting to map out a case before service of process completely fails” the objective standard for recusal. The motion included an affirmative statement that it was not being presented for any improper purpose, and it was accompanied by a notarized affidavit certifying that its factual allegations were true to the best of Appellant’s personal knowledge and belief.

At the hearing, the trial court acknowledged that it did not have the recusal motion before it and directed Appellant to read the motion aloud and present his argument. Appellant described an interaction he observed at the end of the hearing regarding the dismissal of the conservatorship matter, wherein even as the case was being dismissed, “already there [were] conversations and documentation and files being read by [Attorney] Vescovo.” Appellant stated that his former attorney, Jonathan Stokes, looked at the case file, which was a different color, and acted in a manner that Appellant interpreted as

¹ At some point before the hearing on the temporary restraining order, Appellant filed a formal ethics complaint against the trial court judge with the Tennessee Board of Judicial Conduct.

² After learning of Appellant’s motions, the trial court explained its understanding that no further substantive action could be taken in the case until the recusal motion had been resolved. The trial court suggested to Attorney Vescovo that a circuit court judge with an office nearby could potentially review the estate’s temporary restraining order request by interchange in the meantime. The trial court instructed Attorney Robinson that he remained counsel-of-record, as his withdrawal could likewise not yet be considered.

intimidating, based on Attorney Vescovo's involvement in the matter. Appellant alleged that Attorney Vescovo incorrectly stated that he had an abundance of evidence in order to gain permission to conduct Appellant's deposition. Appellant also complained that at the deposition, Attorney Vescovo "drilled" him with the information in files from Appellant's previous cases and would leave to speak on the phone before returning with "a different angle, a different strategy." Appellant ultimately summarized his argument: "[L]ong story short, the reason why I filed this motion to recuse is that file was developed before, and that file had been read by Vescovo before I was ever served."³

The trial court made multiple attempts to clarify Appellant's allegations. The trial court asked if the complaint was that it allowed Attorney Vescovo to take Appellant's deposition prior to the temporary restraining order hearing, and Appellant stated "[n]o, not just that." Nor was the issue that the trial court somehow allowed Attorney Vescovo to review a file prior to the deposition.⁴ The trial court asked if the complaint was that it had an ex parte conversation with an attorney, and if so, which attorney and when, and Appellant answered:

Like I said, for that file to have already been developed and for -- for Vescovo to be able to comment on it before I was served, that file had to be looked at by Vescovo. And I don't know where and when, but I kind of know that if the file is public information, it should have been, but it wasn't because it hadn't been -- it hadn't been a claim made yet.

When the trial court pushed for an answer as to whether the allegation was that the trial court had been part of an ex parte communication because Appellant believed that Attorney Vescovo should not have had the file, Appellant said no, but rather that "What I'm alleging, the file was developed before I was ever served." And in response to the trial court asking how the preparation of the file related to an ex parte communication, Appellant pointed to the trial court's alleged statement at the hearing to dismiss the conservatorship matter that "we have an attorney that's going to handle this," apparently meaning Attorney Vescovo and the present matter, respectively. But Appellant also denied that the comment was the basis for the trial court's recusal. Appellant protested the trial court's questioning, explaining that there was "a lot that has happened with this" and that he is not an attorney and could not "stand here and get drilled." Appellant stated that he did not believe that he could receive a fair trial before the trial court and that he did not think the trial court was protecting his constitutional rights.

At the end of the hearing, the trial court offered its oral ruling on Appellant's motion

³ The transcript of the hearing contains a later statement that "when that file was developed prior to and [Attorney] Vescovo had already looked at that file, it was ex parte communication." As noted by the trial court in its order, the transcript attributes this statement to Attorney Vescovo, which is clearly a misattribution.

⁴ The trial court stated that it did not give permission to view files, only to take the deposition.

to recuse. The trial court explained that it had not reviewed the written motion and might have to respond in more detail about specific factual allegations contained therein in its written order. But the trial court found that based on the argument presented, Appellant had failed to establish a valid basis for recusal.

The trial court's written order denying Appellant's motion was entered September 22, 2026. The trial court affirmatively denied any ex parte communication with Attorney Vescovo, explaining that it "simply did not know Attorney Vescovo until his entry in this case." The trial court explained that Appellant "was given every opportunity to provide evidence that supported his allegation of an improper ex parte discussion between the [c]ourt and Attorney Vescovo and could not do so." Without any proof of an ex parte communication, the trial court determined that a reasonable person knowing all of the facts known to the court would not question the court's impartiality. Appellant filed a timely petition for accelerated interlocutory appeal.

II.

Our sole concern in this interlocutory appeal is whether the trial court erred in denying Appellant's motion for recusal. *See Duke v. Duke*, 398 S.W.3d 665, 668 (Tenn. Ct. App. 2012). Motions to recuse and accelerated interlocutory appeals of orders denying motions to recuse are governed by Rule 10B of the Rules of the Supreme Court of the State of Tennessee. Under Rule 10B, a party is entitled to "an accelerated interlocutory appeal as of right" of an order denying a motion to recuse, with the trial court's ruling "reviewed by the appellate court under a de novo standard of review[.]" Tenn. Sup. Ct. R. 10B, § 2.01. "If the appellate court, based upon its review of the petition for recusal appeal and supporting documents, determines that no answer from the other part[y] is needed, the court may act summarily on the appeal." Tenn. Sup. Ct. R. 10B, § 2.05. In this case, we have determined that no answer from the opposing party is necessary, and we choose to act summarily on this appeal. *See also* Tenn. Sup. Ct. R. 10B, § 2.06 (stating that a 10B accelerated appeal should be decided on an expedited basis).

Tennessee Supreme Court Rule 10, Code of Judicial Conduct Rule 2.11 requires recusal "in any proceeding in which the judge's impartiality might reasonably be questioned," including 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." Tenn. Sup. Ct. R. 10, RJC 2.11(A)(1). This aligns with the general prohibition on ex parte communications. *See* Tenn. Sup. Ct. R. 10, RJC 2.9 (directing that a judge "shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter," except in certain circumstances). *But see Holsclaw v. Ivy Hall Nursing Home, Inc.*, 530 S.W.3d 65, 72 (Tenn. 2017) (holding that even when a trial judge engaged in an ex parte communication, the judge is not required to recuse unless the judge's impartiality may be reasonably questioned).

The Tennessee Supreme Court has explained that “the proponent of a recusal motion bears the burden of establishing that recusal is appropriate[.]” *Adams v. Dunavant*, 674 S.W.3d 871, 878–79 (Tenn. 2023) (per curiam) (citing *Tarver v. Tarver*, No. W2022-00343-COA-T10B-CV, 2022 WL 1115016, at *2 (Tenn. Ct. App. Apr. 14, 2022)). Indeed, “[a] trial judge has a duty to serve unless the proponent establishes a factual basis warranting recusal.” *Id.* at 879. Our supreme court has also established that there is both a subjective and an objective component to the recusal question, noting that

a recusal motion should be granted 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.” *Davis [v. Liberty Mut. Ins. Co.]*, 38 S.W.3d [560,] 564–65 [(Tenn. 2001)] (quoting *Alley v. State*, 882 S.W.2d 810, 820 (Tenn. Crim. App. 1994)). Even if a judge believes he [or she] can be fair and impartial, the judge should disqualify himself [or herself] when “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.” *Id.* (quoting Tenn. Sup. Ct. R. 10, [RJC 2.11]).

Bean v. Bailey, 280 S.W.3d 798, 805 (Tenn. 2009) (some quotation marks omitted). “Recusal based upon an asserted appearance of bias or prejudice ‘is appropriate only if the facts provide what an objective, knowledgeable member of the public would find to be a reasonable basis for doubting the judge’s impartiality.’” *In re Conservatorship of Milem*, No. W2023-01743-COA-T10B-CV, 2024 WL 326863, at *3 (Tenn. Ct. App. Jan. 29, 2024) (quoting *Rose v. Cookeville Reg’l Med. Ctr.*, No. M2007-02368-COA-R3-CV, 2008 WL 2078056, at *2 (Tenn. Ct. App. May 14, 2008)).

We acknowledge that Appellant is proceeding pro se in this appeal. As explained by this Court, “[t]he courts should take into account that many pro se litigants have no legal training and little familiarity with the judicial system. However, the courts must also be mindful of the boundary between fairness to a pro se litigant and unfairness to the pro se litigant’s adversary.” *Jackson v. Lanphere*, No. M2010-01401-COA-R3-CV, 2011 WL 3566978, at *3 (Tenn. Ct. App. Aug. 12, 2011) (quoting *Hessmer v. Hessmer*, 138 S.W.3d 901, 903 (Tenn. Ct. App. 2003)). Therefore, “[w]hile entitled to fair and equal treatment before the courts, a pro se litigant is still required to comply with substantive and procedural law as do parties represented by counsel.” *Gilliam v. Gilliam*, No. M2007-02507-COA-R3-CV, 2008 WL 4922512, at *3 (Tenn. Ct. App. Nov. 13, 2008) (citing *Hessmer*, 138 S.W.3d at 903). Respectfully, even when viewed in light of his pro se status, Appellant’s petition for an accelerated interlocutory recusal appeal suffers from multiple flaws.

First, Appellant’s petition does not comply with this Court’s requirements. Beyond

passing references to Rule 10B, Appellant fails to cite to any legal authority entitling him to relief. *See Sneed v. Bd. of Pro. Resp. of Sup. Ct.*, 301 S.W.3d 603, 615 (Tenn. 2010) (holding that it “is not the role of the courts, trial or appellate, to research or construct a litigant’s case or arguments for him or her”).

Next, we note that Appellant presents ten issues for our review, many of which involve bases for recusal not raised in his recusal motion. As this Court has previously explained, “[w]e will not consider additional allegations of bias raised on appeal when not included in the initial motion for recusal filed in the trial court.” *Sukapurath v. Raghavan*, No. W2024-01106-COA-T10B-CV, 2024 WL 3949068, at *2 (Tenn. Ct. App. Aug. 27, 2024) (citing *McKenzie v. McKenzie*, No. M2014-00010-COA-T10B-CV, 2014 WL 575908, *6 n.3 (Tenn. Ct. App. Feb. 11, 2014) (declining to consider additional allegations of bias raised on appeal when not included in the initial motion for recusal filed in the trial court); *Malone v. Malone*, No. W2023-00843-COA-T10B-CV, 2023 WL 8457951, at *14 (Tenn. Ct. App. Dec. 6, 2023) (citing *McKenzie*)).

Moreover, most of these newly raised bases seem to be related to the trial court’s substantive findings, potentially in the now-dismissed conservatorship matter. Specifically, Appellant asserts that the trial court: (1) considered certain unproven allegations that were prejudicial to him, but did not consider other facts in his favor; (2) made improper negative inferences about Appellant based on his power of attorney for the decedent; (3) awarded opposing counsel attorney’s fees from Appellant’s non-probate accounts without granting him access to the transaction records; (4) disregarded the decedent’s will naming Appellant as executor and beneficiary in favor of appointing an alternate administrator of her estate; (5) overlooked evidence of the decedent’s competency; and (6) found Appellant to have abused the decedent while ignoring proof of the appointed-administrator’s abuse of the decedent. The matters were not included in his recusal motion, discussed at the September 10, 2026 hearing, or mentioned in the trial court’s ruling. Such arguments are therefore not properly before us in this accelerated interlocutory recusal appeal. *See Duke*, 398 S.W.3d at 668 (“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[.]”).⁵

Other bases raised by Appellant for the first time on appeal involve the trial court’s handling of his recusal motion. Appellant argues that the trial court improperly required oral argument on his recusal motion at the September 10, 2026 hearing, despite the “mandatory jurisdictional freeze” set out in Rule 10B. Appellant argues that the trial court showed further evidence of partiality by “refus[ing] to read or examine the physical motion

⁵ Additionally, “[a]dverse rulings by a trial court are not usually sufficient grounds to establish bias.” *Alley*, 882 S.W.2d at 821; *see also McKenzie*, 2014 WL 575908, at *4 (“Because the protections against bias are generally specific to an individual judge, and arise from a personal situation and a source outside the lawsuit, rulings made during a lawsuit are not enough to require recusal.”).

papers” and instead forcing Appellant to read the motion aloud. He asserts that the trial court “immediately us[ed] the opportunity to subject the newly pro se [Appellant] to an aggressive, adversarial cross-examination[,]” despite judges being “entirely forbidden from acting as a cross-examiner or an advocate for the adverse party.” Appellant also asserts that the trial court’s reliance on the transcript of the September 10, 2026 hearing despite its noted flaw in attributing a particular statement to Attorney Vescovo rather than Appellant is more evidence that the court “has abandoned its neutral role.”

To be sure, the trial court was not obligated to conduct a hearing on Appellant’s recusal motion, see *In re Samuel P.*, No. W2016-01592-COA-T10B-CV, 2016 WL 4547543, at *7 (Tenn. Ct. App. Aug. 31, 2016) (“[N]othing in Rule 10B requires a trial judge to hold a hearing on a recusal motion.”), but neither was the court prevented from doing so.⁶ Although Rule 10B “precludes a trial judge from taking further action in a case when a motion for recusal is pending against him or her[,]” the purpose of this directive is “to ensure that a trial court makes no *substantive* decisions while the motion to recuse is pending.” *Matter of Conservatorship of Tapp*, No. W2021-00718-COA-R3-CV, 2023 WL 1957540, at *8 (Tenn. Ct. App. Feb. 13, 2023) (first quoting *Rich v. Rich*, No. M2018-00485-COA-T10B-CV, 2018 WL 1989619, at *12 n.3 (Tenn. Ct. App. Apr. 27, 2018); and then quoting *Austermiller v. Austermiller*, No. M2022-01611-COA-T10B-CV, 2022 WL 17409921, at *7 (Tenn. Ct. App. Dec. 5, 2022)); see also Tenn. Sup. Ct. R. 10B, § 1.02. The rule “requires the trial court to first analyze the motion to disqualify before proceeding to any substantive issues in the case.” *In re Est. of Abbott*, No. W2017-02086-COA-T10B-CV, 2017 WL 4864816, at *2 (Tenn. Ct. App. Oct. 27, 2017) (citing *In re Conservatorship of Tate*, No. M2012-01918-COA-10B-CV, 2012 WL 4086159 at *3 (Tenn. Ct. App. Feb. 17, 2012)). Here, the trial court was clear that no substantive matters could be addressed prior to the resolution of Appellant’s recusal motion. The trial court putting aside the initial matter to be addressed at the September 10, 2026 hearing in favor of allowing the parties to present arguments on Appellant’s motion was fully in line with Rule 10B’s requirements.

In any event, no objection was raised regarding the change in the hearing’s subject matter. Of course, as the trial court repeatedly stated, the requirement to reserve consideration of any substantive issues meant that Appellant was still technically represented by Attorney Robinson during the hearing, and no objection was raised by Attorney Robinson regarding the trial court hearing argument on the motion to recuse. Nor

⁶ We note that Rule 10B does not permit a represented party to file a pro se motion for recusal. Tenn. Sup. Ct. R. 10B, § 1.01. In this case, the trial court nevertheless considered Appellant’s pro se recusal motion, in light of the contemporaneous notice of Appellant’s intent to end Attorney Robinson’s technically ongoing representation, and no objection to this procedure has been raised. See *Stephenson v. 2300 & 2306 SSR Prop. Tr.*, No. M2026-00621-COA-T10B-CV, 2026 WL 1432639, at *3, *6 n.5 (Tenn. Ct. App. May 21, 2026) (noting that the trial court similarly reviewed the pro se recusal motion of a nominally represented party because “a motion to withdraw was pending and [the party] had requested that [the attorney] no longer represent her” and “follow[ing] the same reasoning” in the appeal).

did Appellant raise any concern about being asked to read the motion aloud or about being asked to explain his alleged bases for the trial court's recusal himself. Indeed, when first directed by the trial court to "tell me why you think I need to recuse[,]" Appellant stated: "Your Honor, thanks for letting me talk." And although Appellant did eventually assert that he could not "stand [t]here and just talk about it because [he is] not a lawyer," he did not parlay his apparent discomfort with answering the trial court's questions into a request that Attorney Robinson respond on his behalf or that the hearing be postponed until he could obtain new counsel. *See State v. Vance*, 596 S.W.3d 229, 253 (Tenn. 2020) ("A trial court cannot evaluate an objection that is not made."); *see also* Tenn. R. App. P. 36(a) ("Nothing in this rule shall be construed as requiring relief be granted to a party responsible for an error or who failed to take whatever action was reasonably available to prevent or nullify the harmful effect of an error."). We find no basis for disqualification in the trial court addressing Appellant's recusal motion at the September 10, 2026 hearing, where Appellant's current attorney was present and no objection was raised.

From our review of the transcript we also find no support for Appellant's assertion that the trial court "launched into an aggressive, adversarial interrogation" or else treated Appellant "as if he were an adverse witness undergoing a hostile deposition rather than a litigant presenting a jurisdictional motion." Although some impatience may be read in the trial court's line of questioning, any such emotion would not seem uncalled for in the face of Appellant's refusal to provide coherent answers—the trial court made no fewer than fifteen attempts to have Appellant explain the reasoning behind his request for recusal, without evident success. There is no indication that any frustration the trial court might have felt stemmed from anything other than Appellant's conduct throughout the proceeding. *See Alley*, 882 S.W.2d at 821 ("If the bias is based upon actual observance of witnesses and evidence given during the trial, the judge's prejudice does not disqualify the judge."); *McKenzie*, 2014 WL 575908, at *4 (acknowledging that "judicial remarks during the course of a trial that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge" (citation omitted)). Likewise, the transcript does not support Appellant's argument that the trial court showed bias against him by refusing to consider his written recusal motion. While the trial court did make an initial oral response to Appellant's motion based on the arguments presented, the court was clear that it would review the written motion before entering its final decision on the matter, and the written order reflects such additional consideration.

We are similarly without any cause to believe that the acknowledgement of an obvious labelling error in the hearing transcript amounts to evidence of the trial court's partiality. Appellant does not deny that the trial court correctly recognized him as the statement's speaker in its order and he offers no examples of any unidentified errors in the transcript or the harm caused by its continued use. *See Chiozza v. Chiozza*, 315 S.W.3d 482, 489 (Tenn. Ct. App. 2009) (providing that a "skeletal argument that is really nothing more than an assertion will not properly preserve a claim" (quoting *Newcomb v. Kohler*

Co., 222 S.W.3d 368, 400 (Tenn. Ct. App. 2006)). These arguments therefore also fail to provide any justification for the trial court’s recusal.

Finally, we turn to the allegations actually contained in Appellant’s motion for recusal: the *ex parte* communication that enabled Attorney Vescovo to have a file of information on Appellant prior to the filing of the complaint in the instant case and the “unprecedented, highly prejudicial six-hour deposition” of Appellant that was allowed to take place based on this information. From our review, it appears that Appellant is asserting that some improper communication must have occurred in order for Attorney Vescovo to have a file concerning Appellant before the present case formally began. Appellant further alleges that Attorney Vescovo was able to schedule his deposition in reliance on the evidence apparently in the pre-prepared file, and that during the deposition, Attorney Vescovo used the pre-prepared file to “drill” Appellant to attempt to fabricate evidence, Attorney Vescovo received strategy instructions by phone, and Attorney Robinson failed to raise any procedural objections. The sum of the trial court’s involvement seems to be a statement made to the effect of “hav[ing] an attorney” to “handle” the as-yet-unfiled case, which attorney turned out to be Attorney Vescovo, and the granting of the estate’s request to conduct Appellant’s deposition prior to the hearing on the temporary restraining order.

Respectfully, Appellant’s argument on these points is difficult to connect to any valid basis for the trial court to recuse itself. Although Appellant maintains that “[t]here had to be some communication” for Attorney Vescovo “to know exactly all the information he knew[,]” Appellant has neither explained what information was allegedly distributed nor provided any evidence to suggest that the trial court was involved in the sharing of such information. *See Boren v. Hill Boren, PC*, 557 S.W.3d 542, 547 (Tenn. Ct. App. 2017) (finding petitioners’ contention that the trial court judge had been prejudiced against them during an *ex parte* conversation with another judge insufficient to establish cause for recusal where the record contained no facts to support a finding that the judges had discussed the case, the parties, or the attorneys, as “[s]tated another way, the accusation . . . [was] solely based on a supposition, not a fact”); *Carney v. Santander Consumer USA*, No. M2010-01401-COA-R3-CV, 2015 WL 3407256, at *6 (Tenn. Ct. App. May 28, 2015) (affirming the denial of the recusal motion where the movant did “nothing more than assert, with supporting affidavits, that an *ex parte* communication must have occurred between the trial judge and counsel for [the non-movant] because [the non-movant] appeared at a hearing and attempted to persuade [the movant] that she should obtain counsel to prosecute her case” and “[n]othing in [the movant’s] recusal motion, supporting affidavits, or submission to this [c]ourt indicates the time, place, or substance of any alleged *ex parte* communication”); *Runyon v. Runyon*, No. W2013-02651-COA-T10B-CV, 2014 WL 1285729, at *9 (Tenn. Ct. App. Mar. 31, 2014) (citing *Comiskey v. District Ct. In and for County of Pueblo*, 926 P.2d 539, 544 (Colo. 1996) (noting that “the mere allegation that a judge engaged in an *ex parte* communication is not enough to require recusal” and that “[t]he petitioner must also allege facts sufficient to infer that the judge is or appears to be biased”)). And even if we assume that such circumstances could amount to cause for

disqualification, Appellant has utterly failed to show that the trial court was in any way connected to the manner in which his deposition was taken. This is simply not enough to meet Appellant's burden: "[a] claim of bias or prejudice must be based on facts, not speculation or innuendo[.]" *Runyon*, 2014 WL 1285729, at *9 (citing *Walker v. People*, 126 Colo. 135, 248 P.2d 287, 295 (Colo. 1952) (holding that "[s]uspicion, surmise, speculation, rationalization, conjecture, innuendo, and statements of mere conclusions of the pleader may not be substituted for a statement of facts")); *see also Bledsoe v. Bledsoe*, No. W1999-01515-COA-R3-CV, 2000 WL 371196, at *6 (Tenn. Ct. App. 2000) (providing that "[w]ithout more, [] unsupported allegations of bias are simply too vague to require the trial court's recusal.").

Accordingly, we conclude that Appellant has been unable to establish that "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." *Bean*, 280 S.W.3d at 805. We therefore affirm the trial court's denial of Appellant's motion to recuse.

III. CONCLUSION

The judgment of the Fayette County Chancery Court is affirmed, and this matter is remanded to the trial court for further proceedings consistent with this Opinion. Costs of this appeal are taxed to Appellant Calvin McGlown, for which execution may issue if necessary.

s/ J. Steven Stafford
J. STEVEN STAFFORD, JUDGE