

HON. JAMES A. HAYNES
District Judge

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MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

<p>STATE OF MONTANA, Plaintiff, v. WILLIAM MICHAEL WINDSOR, Defendant.</p>	<p>Cause No. DC-14-509 Department No. 3 OPINION AND ORDER REFERRING TO MONTANA SUPREME COURT</p>
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On May 4, 2015, the Court directed the Clerk of District Court to summon 100 jurors for a 3-day jury trial in this cause to commence June 22, 2015. (Doc. # 41).

The Court is now in receipt of a filing entitled *Second Motion to Disqualify Judge James A. Haynes* (Doc. # 51), filed by Defendant William Michael Windsor ("Defendant Windsor") in this cause on May 13, 2015. Defendant Windsor is representing himself and Christopher Daly of Office of Public Defender is his stand-by counsel. Defendant Windsor, also on May 13, 2015, filed (a) a *Motion to Discharge Public Defender* (Doc. #50), requesting that the Court discharge Christopher Daly as stand-by counsel, (b) a *Notice of Filing of Proposed Order on Petition for*

Writ of Habeas Corpus (Doc. # 49), and (c) a *Motion for Sanctions* (Doc. # 47), requesting sanctions against the State of Montana for failing to timely provide criminal discovery.

The *Second Motion to Disqualify Judge James A. Haynes* (Doc. # 51) argues that Judge Haynes should be disqualified in this matter pursuant to § 3-1-805; MCA, § 3-1-803, MCA, the Montana Code of Judicial Conduct, and the United States Constitution. The motion is accompanied by the *Affidavit of William Windsor Dated May 12, 2013* [sic] dated May 12, 2015; a notarized verification of such affidavit; and a notarized and verified *Certificate of Counsel of Record* dated May 12, 2015 by Defendant Windsor, *pro se*. The affidavit alleges that Defendant Windsor has named Judge John W. Larson and Judge James A. Haynes as two of the most corrupt judges in America (¶ 63); that Judge Larson hand-picked Judge Haynes to preside in this cause because “he knew Judge James A. Haynes shared his ill feeling toward their enemy, William M. Windsor” (¶ 68); that he has long planned to call Judge James A. Haynes as a fact witness in this case (¶ 77); that Judge Haynes demonstrated extreme bias toward William M. Windsor at hearings on April 8, 2015 and April 29, 2015 and called him a whining child (¶¶ 79-80); that Judge Haynes “has conducted ex parte discussions with the State” (¶ 95); and that Judge Haynes “has a prior relationship of some type with William M. Windsor’s accuser, Sean Boushie. This caused him to issue a truly bizarre ruling . . .” (Doc. # 51 Ex. A). The affidavit also indicates that Defendant Windsor has experienced problems in filing documents with the Clerk of Court as recently as April 27, 2015 (which, upon information and belief, Defendant Windsor attributes to Judge Haynes’s interference). (Doc. # 51 Ex. A).

Section 3-1-805, MCA provides, in pertinent part:

1. Whenever a party to any proceeding in any court shall file an affidavit *alleging facts showing personal bias or prejudice of the presiding judge, such judge shall proceed no further in the cause. If the affidavit is filed against a district judge, the matter shall be referred to the Montana Supreme Court.* If the affidavit is in compliance with subsections (a), (b), and (c) below, the Chief Justice shall assign a district judge to hear the matter. If the affidavit is filed against a judge of a municipal court, justice court, or city court, any district judge presiding in the district of the court involved may appoint either a justice of the peace, a municipal judge or a city court judge, to hear any such proceeding.

(a) The affidavit for disqualification must be filed more than thirty (30) days before the date set for hearing or trial.

(b) The affidavit shall be accompanied by a certificate of counsel of record that the affidavit has been made in good faith. An affidavit will be deemed not to have been made in good faith if it is based solely on rulings in the case which can be addressed in an appeal from the final judgment.

(c) Any affidavit which is not in proper form and which does not allege facts showing personal bias or prejudice may be set aside as void.

(d) The judge appointed to preside at a disqualification proceeding may assess attorneys fees, costs and damages against any party or his attorney who files such disqualification without reasonable cause and thereby hinders, delays or takes unconscionable advantage of any other party, or the court.

(Emphasis added.)

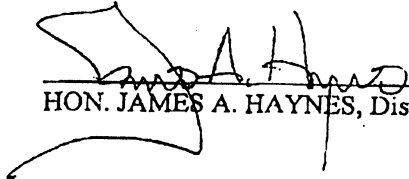
Upon review of the *Second Motion to Disqualify Judge James A. Haynes* (Doc. # 51), the Court determines that the matter should be referred immediately to the Montana Supreme Court pursuant to Section 3-1-805, MCA.

ORDER

Now, therefore it is **ORDERED**:

1. The Clerk of Court shall ensure that its records reflect that Defendant Windsor, *pro se*, is counsel of record in this cause and that Christopher Daly is stand-by counsel. The Clerk of Court shall provide Defendant Windsor with a copy of this *Opinion and Order Referring to Montana Supreme Court* and with a copy all subsequent orders issued in the cause while he is counsel of record. Christopher Daly shall also continue to receive such orders while he is stand-by counsel.

2. The Clerk of Court shall immediately refer this matter to the Montana Supreme Court, in accordance with § 3-1-805, MCA.


HON. JAMES A. HAYNES, District Judge

05/14/15

cc: counsel of record (including William Michael Windsor, *pro se* and Christopher Daly, his stand-by counsel)