

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

File No. 14-CVD-15242-910

MICHAEL SCOTT DAVIS,
Plaintiff,
v.
PIA LAW,
Defendant.

**MOTION FOR RECUSAL
OF JUDGE RATLEDGE**

NOW COMES the Plaintiff, Michael Scott Davis, pro se, and respectfully moves this Honorable Court for an order recusing the Honorable Judge Brian Ratledge from presiding over the upcoming trial scheduled for 30 October 2024. In support of this Motion, Plaintiff shows the Court the following:

1. Background and Current Proceedings:

- a. The Plaintiff is scheduled to appear in a trial before Judge Brian Ratledge in Wake County District Court on 30 October 2024, in case No. 14-CVD-15242-910.
- b. Plaintiff has filed a federal civil rights lawsuit, *Davis, Webster v. Ratledge, et al.*, case No. 5:24-CV-440-FL, in which Judge Ratledge is named as a Defendant. Judge Ratledge is being sued in both his official and individual capacities for alleged due process violations and false imprisonment.

2. **Conflict of Interest:** Given that Judge Ratledge is a defendant in a federal lawsuit initiated by Plaintiff which directly questions his judicial decisions, there exists a

significant conflict of interest that raises serious concerns about his ability to remain impartial and fairly adjudicate this case.

3. **Appearance of Impropriety and Bias:**

- a. **Federal Lawsuit Allegations:** The federal lawsuit—*Davis, Webster v. Ratledge, et al.*, case No. 5:24-CV-440-FL, includes allegations of constitutional violations and requests for a federal investigation under 18 U.S.C. § 242, which deals with the deprivation of rights under color of law. These allegations further underscore the potential for perceived bias and/or the appearance of impropriety if Judge Ratledge continues to preside over this matter..
- b. **Existing Pattern in Practice of Due Process Violations and Judicial Bias,** evidenced in part, by:
 - i. **March 2022 Hearing Failure to Review Evidence:** Plaintiff filed a Rule 60(b) motion in 2020 and heard two years after filing. During the hearing, Judge Ratledge admitted on the record that he had not reviewed Plaintiff's motion prior to the proceedings offering to read it then with the caveat that this would be deducted from the Plaintiff's time. This deprived Plaintiff of the reasonable opportunity to present his case, as the court did not allocate sufficient time for a thorough review of the issues raised. By not reviewing the evidence beforehand, the court violated Plaintiff's procedural due process rights, as guaranteed by the Fourteenth Amendment of the U.S. Constitution and the Law of the Land clause in Article I, § 19 of the North Carolina Constitution.
 - ii. **March 2022 Hearing Incident ("*Maybe I'm Just Hungry*"):** During the same trial, which also addressed his motion to modify child support filed in 2018 and heard four years after—Judge Ratledge made an offhand remark stating, "*This really comes down —I think it's a Thales* [Name of

School] *disagreement is what my gut is, but maybe my gut's wrong. Maybe I'm just hungry.* [Emphasis added]" This comment, combined with the resultant denial, contained no clear connection between the evidence presented, legal conclusions, or judgments as specified in *Coble v Coble*. This strongly suggests that his decision was influenced, at best, by personal feelings or a "gut" feeling rather than legal principles or the facts of the case. See Exhibit D04, Mar. 2, 2022, T: p.162:25, p.163:1-2; *Coble v Coble*, 300 N.C. 708 (1980).

c. October 7, 2022 Failure to Follow Due Process For Civil Contempt Finding:

- i. During an October 2022 show cause/contempt hearing, Judge Ratledge failed to address Plaintiff's properly filed and calendared motions for protective orders before finding Plaintiff in civil contempt.
- ii. Additionally, opposing counsel admitted on the record that she intended to file a motion to compel but chose not to, a decision that the judge was aware of and should have reasonably acted upon given the due process implications. Instead, the judge took no corrective action.
- iii. At the end of the hearing, Plaintiff was arrested and incarcerated without any opportunity for compliance or appeal. This sequence of events strongly suggests personal bias, as procedural safeguards required by due process were blatantly disregarded multiple times. See Exhibit D16, Oct. 7, 2022, T: p.44:23-p.45:44.

4. **Reaffirmation of Recusal When There is Even the *Appearance* of Bias:** Even if actual bias were not present, the mere appearance of partiality is sufficient to warrant

recusal under both North Carolina law and federal judicial ethics standards. The U.S. Supreme Court in *Caperton* held that even the potential for bias can rise to a level that violates due process. Likewise, the North Carolina Supreme Court in *Lange* reaffirmed that recusal is required where a reasonable person could question a judge's impartiality. See *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 876, 129 S.Ct. 2252, 2259 (2009); *Lange v. Lange*, 357 N.C. 645, 649, 588 S.E.2d 877, 880 (2003).

5. Legal Basis for Recusal:

- a. Judicial impartiality is a cornerstone of the justice system. Under 28 U.S.C. § 455(a) and Canon 3(c)(1) of the North Carolina Code of Judicial Conduct, judges must recuse themselves when their impartiality might reasonably be questioned, including situations where the judge is a party to related litigation involving one of the parties.
- b. Both the U.S. Supreme Court in *Caperton v. A.T. Massey Coal Co* and the North Carolina Supreme Court in *Lange v Lange*, have held that due process requires recusal when “...the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable.” The courts affirm that recusal is necessary when substantial evidence suggests that a reasonable person could question the judge's impartiality based on the circumstances. See *Lange v. Lange*, 357 N.C. 645, 649, 588 S.E.2d 877, 880 (2003); *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 876, 129 S.Ct. 2252, 2259 (2009).
- c. In *Ponder*, the North Carolina Supreme Court held that it is not merely actual bias but the appearance of bias that renders a judge's participation inappropriate. Even if a judge personally believes they are not biased, recusal is required if their conduct creates any suspicion regarding their fairness and integrity See *Ponder v. Davis*, 233 N.C. 699, 704, 65 S.E.2d 356, 360 (1951).

6. Conclusion:

- a. In light of the substantial risk of perceived bias due to the ongoing federal lawsuit against Judge Ratledge, the documented pattern of procedural due process violations, and the repeated failure to correct or address these violations by other officers of the court, Plaintiff respectfully requests that Judge Brian Ratledge recuse himself from presiding over the upcoming trial to ensure impartiality and fairness.
- b. This pattern of unchecked judicial behavior, along with the failure of the court to correct or intervene in these procedural breaches, undermines confidence in the judicial process and creates a substantial risk of further bias, as recognized by both state and federal law. Recusal is necessary to uphold the principles of due process and judicial integrity.

WHEREFORE, the Plaintiff prays the Court:

1. Recuse the Honorable Judge Brian Ratledge from presiding over any further proceedings in this matter;
2. Assign a different judge to hear the case;
3. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted this 9th day of September 2024.



Michael Scott Davis, *Plaintiff Pro Se*

823 Stadium Drive #E | Wake Forest, NC 27587

(609) 924-6984 | miked@lucidimpact.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served a copy of the foregoing motion on the opposing party by depositing a copy, contained in a first-class, postage-paid wrapper, into a depository under the exclusive care and custody of the United States Postal Service, addressed as follows:

Electronic: stephanie.jenkins@parkerbryanfamilylaw.com Through Wake County efile

By U.S. mail: PARKER BRYAN FAMILY LAW—133 Fayetteville St, Suite #500. Raleigh, NC 27601 Attn: Stephanie Jenkins

This, the 9th of September, 2024.

A handwritten signature in black ink, appearing to read "Michael Scott Davis", written over a horizontal line.

Michael Scott Davis, *Plaintiff Pro Se*
823 Stadium Drive #E | Wake Forest, NC 27587
(609) 924-6984 | miked@lucidimpact.com

IN THE NORTH CAROLINA GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

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MICHAEL SCOTT DAVIS,) WAKE COUNTY
Plaintiff,)
v.) FILE NO. 14 CVD 15242
PIA LAW,)
Defendant.)

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TRANSCRIPT, Volume 1 of 1

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Wednesday, March 2, 2022

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Brian Ratledge, Judge Presiding

Motions Hearing

APPEARANCES:

Michael Scott Davis, Pro Se
823 Stadium Drive, Apartment E
Wake Forest, NC 27587
on behalf of the Plaintiff

Stephanie Jenkins, Esquire
McCae Henderson, Esquire
Parker Bryan Family Law
133 Fayetteville Street, Suite 500
Raleigh, NC 27601
on behalf of the Defendant

Victoria O'Connor, CET
O'Connor Legal, Medical & Media Services, Inc.
127 F Street - Suite 103
Brunswick, GA 31520

1 you did.

2 Okay. So, Thales, I'm going to keep that in the
3 equation. So, you will need recap. So, everything but the
4 income amounts that I just, for him need -- stays the same.
5 You'll adjust those, except for 2022 will not be adjusted,
6 keep Thales in.

7 You'll need to recalculate the arrearage and
8 whatever that arrearage amount is from, from October of 2018
9 to the present, that there's going to be a pot there, he'll
10 pay a monthly arrearage amount of 250 to the Plaintiff -- to
11 the Defendant on top of whatever that, that monthly amount
12 you come up with, okay?

13 And once he pays -- and that'll be paid by
14 electronic bank transfer on the 1st of each month, but do
15 not include the 3054 --- 3052 -- whatever the 3050 amount.
16 That's got to be paid within 45 days of me entering this
17 Order. But the rest, he'll, he'll pay the other way.

18 Everything else looks to be right on par and
19 supported. I am mindful that he does have -- though it's an
20 LLC, he is allowed some, some reasonable expenses even
21 though there wasn't a whole lot shown as to that.

22 I'm, I'm mindful of the fact that even if he
23 didn't have a business, he'd still need a phone and whatnot.
24 But those things can be calculated in this.

25 This really comes down -- I think it's a Thales

1 disagreement is what my gut is, but maybe my gut's wrong.

2 Maybe I'm just hungry. So, any questions for me.

3 MR. HENDERSON: So, just to clarify, Your Honor.

4 The monthly arrearage is the 250 on top of the child support
5 obligation --

6 THE COURT: On top of the --

7 MR. HENDERSON: -- is what you want to do?

8 THE COURT: -- child support obligation --

9 MR. HENDERSON: Okay.

10 THE COURT: -- moving forward for -- in 2022.

11 MR. HENDERSON: Okay.

12 THE COURT: You got it. And once he pays that,
13 you know, it -- you know, once that's paid off, and then,
14 then, it'll go back down to the, the regular ongoing child
15 support amount, the monthly amount.

16 MR. HENDERSON: Okay.

17 THE COURT: So, to be clear, 2018, his income is
18 \$3705.92. 2019 is 3905. 2020, it's \$8778.09. 2021 is
19 higher than either one of you indicated.

20 Eighty -- or actually, he didn't really say much
21 about it. You all did. It's \$8923.20. And then, the
22 amount you have for 2022, I'm satisfied with. All right.

23 MS. JENKINS: Very good. Thank you, Your Honor.
24 Thank you for your time --

25 THE COURT: Thank you.

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WAKE COUNTY
14 CVD 15242

TRANSCRIPT

RULE 59 MOTION FOR SANCTIONS -PAGES 1-18

DEF'S MOTION TO SHOW CAUSE | CONTEMPT- PAGES 19-42

07 OCTOBER 2022

Transcript of proceedings in the General Court of Justice, District
Court Division, Wake County, North Carolina, at the 07 October 2022 session before
the Honorable Brian Ratledge, Judge Presiding.

1 MS. JENKINS: No. Nothing else on behalf of Ms. Law, Your Honor.

2 THE COURT: Okay. Um, nothing on rebuttal, I take it.

3 MR. SHORT: No, Your Honor.

4 THE COURT: All right, Ms. Jenkins, go ahead. I think he's been waived.

5 MS. JENKINS: Um, Judge, he's not gonna pay it. [Laughs] He's not going to
6 prove to you or say to you why he can't pay it. He's not going to show you one
7 document about why he should not. Well, he's not going to give her two-, 275 back.
8 [Keyboard clattering] I mean, if that's not the biggest thumbing of your order I've
9 ever seen, I don't know what it is. And-and-and he's going to continue- He's not
10 going to let child support enforcement know that you already made a decision. He's-
11 he's just not gonna pay it. And I'll let you deal with that. She's the one who
12 continues to have to support this child.

13 THE COURT: Okay. Mr. Short.

14 MR. SHORT: Judge, I don't, I-I don't really understand the um, what child
15 support enforcement has to do with it. I mean, he's got, um, you know, he's got
16 every right to go to child support enforcement and have them intervene in the case.
17 So I'm not sure what the relevance of that is. I'll just make the same argument
18 about the 275 you made earlier. I don't think that you can find him in civil contempt
19 for that because it's not pursuant to a Court order.

20 THE COURT: Yeah, I would, I would agree with you...

21 MR. SHORT: Regarding the...

22 THE COURT: ...on that.

23 MR. SHORT: ...ability to pay. Um, in-in my opinion, you don't have any
24 evidence that he has the present ability to comply with the order. Um, and you have
25 to find that um, you know, 51% of that if he has the present ability to pay and no

1 financial information has been submitted to the Court that shows that he has the
2 present ability to pay. He's testified that he does not have the present ability to pay
3 um, and with regard to the, to the uh, objection and the subpoena, um, all this did
4 was ask for a protective order. Um, which she could have you know, prosecuted that
5 and she could have filed a motion to compel. And she-, we could have gotten a
6 continuance that she could have gotten her order to compel um, and we kind of had
7 a hearing on the protective order. So, you know, the fact that she can't prove that he
8 has the ability to pay is on her.

9 THE COURT: Well, is that- is that where we're at though? Because we're in
10 civil contempt. And so I'll be very blunt, Mr. Short, you are in the unenviable
11 position that appears with not having received any documents from your client.
12 That your client is essentially pleading the empty chair and- and saying just take
13 my word for I don't have it. This- this is just kind of the reality here. If-if-if that
14 were our judicial standard, legal standard, I'm sorry for contempt cases, and I don't
15 know how anybody could ever be held in contempt for anything because a moving
16 party files for contempt. Opposing party just says, "Hey, take my word for it." I
17 didn't-, I'm not going to show any documentation. Believe me.

18 MR. SHORT: We didn't- we didn't, Judge. We didn't say that she couldn't
19 have the documents. Um...

20 THE COURT: But...

21 MR. SHORT: ...all we asked for was a protective order.

22 THE COURT: But whose burden of proof is it today to show that they have
23 the ability to comply, or they did, or they did not have the ability? We're in civil
24 contempt.

25 MR. SHORT: I understand.