

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

JAN 07 2004

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

JAMES W. McCORMACK, CLERK
DEP. CLERK
PLAINTIFF

MICHAEL GALSTER

V.

NO. 4:03 CV 01013 JMM

KELLY DUDA

DEFENDANT

MOTION FOR RECUSAL

COMES NOW THE DEFENDANT, Kelly Duda, by and through his attorneys, David O. Bowden and Steven R. Smith, and with the utmost respect, move that the Court recuse from further consideration of this matter, its cause stating:


1. This case involves a documentary film made by Defendant, Kelly Duda, and the ownership rights, including the privilege of public display and distribution. The subject of the film is the Arkansas prison system and its supplying of blood products tainted with HIV and Hepetatis C in a knowing and wilful fashion to distributors in Canada, Europe and Japan. Due to the allegations made by Plaintiff, Michael Galster, it is inevitable that the Court will need to view the video and assess Galster's participation in the making of it.
2. Plaintiff Galster participated in the film as an on-camera interviewee only. In the said interview he made certain allegations that amount to charges of criminal activity on the part of one or more individuals.
3. One of these individuals is closely related to the family of the Court and if the film is publicly shown, could conceivably cause discomfort or embarrassment to those in the Court's family.
4. Such a scenario would create the reasonable appearance of impropriety and that the potential for accusations that the Court could not fairly decide this case, as to either Plaintiff or Defendant would arise.
5. Under the American Bar Association's Canon of Judicial Ethics, Canon 3, a judge is charged


with avoiding not only actual impropriety but the appearance of impropriety in order that the public confidence in the integrity and impartiality of the judiciary be maintained.

6. Defendant hastens to say that he is not alleging actual impropriety has occurred or is likely to occur, but only that the perception will be created that impropriety has occurred if the Court does not recuse and transfer this matter to another division.
7. Defendant would also request expedited consideration of this matter in that a hearing is currently scheduled in this matter on January 12, 2004, at 9:00 A.M.

WHEREFORE, with the utmost respect to this Court, Defendant prays that the Court for expedited consideration of this motion, for the Court's recuse from further consideration of this matter and for all other just and proper relief, premises stated herein considered.

Respectfully submitted,


David O. Bowden, #89119


Steven R. Smith, #91177

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Kelly Duda

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the above and foregoing has been served upon the individual(s) named herein below by placing a copy of same in the United States Mail, postage prepaid.

Dated this 7th day of Jan, 2004

Joseph W. Woodson, Jr., 401 W. Capitol Ave., Suite 2990, Little Rock, AR. 72201

