

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Action No. 07-cv-1358-PAB-KMT

MICHAEL DOYLE,

Petitioner,

v.

LOU ARCHULETA and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

ORDER OF RECUSAL

This matter is before me on review of the Recommendation of United States Magistrate Judge [Docket No. 40] and the related pleadings. In my prior position as the chief deputy district attorney of Courtroom 11 at the Denver District Attorney's Office, I supervised deputy district attorney Art Hernandez. Mr. Hernandez was assigned to *People v. Michael Doyle*, Case No. 01CR2317, in Courtroom 11 of Denver District Court between at least July 30, 2001 and November 2001, when I left the District Attorney's Office. Petitioner's habeas corpus application in this case challenges his conviction in Case No. 01CR2317. Section 455(b)(3) of Title 28 states that a judge shall disqualify himself "[w]here he has served in governmental employment and in such capacity participated as counsel [or] adviser . . . concerning the proceeding" As a result, pursuant to 28 U.S.C. § 455(b)(3), I must recuse myself from this case. It is therefore

ORDERED that the judge's file be returned to the clerk's office for the case to be reassigned.

DATED December 7, 2009.

BY THE COURT:

s/Philip A. Brimmer _____
PHILIP A. BRIMMER
United States District Judge