

DANIELLE MCDEVITT

NO. 22-C-442

VERSUS

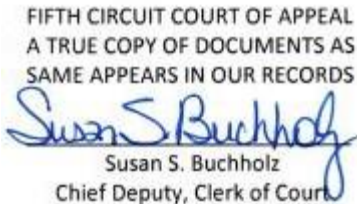
FIFTH CIRCUIT

MICHAEL SALISBURY

COURT OF APPEAL

STATE OF LOUISIANA

September 20, 2022



Susan Buchholz
Chief Deputy Clerk

IN RE DANIELLE MCDEVITT

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE NANCY A. MILLER, DIVISION "I", NUMBER 776-634

Panel composed of Judges Susan M. Chehardy,
Fredericka Homberg Wicker, and John J. Molaison, Jr.

WRIT GRANTED

Based upon our review of the application presented, we find that the motion to recuse at issue was timely filed setting forth alleged recent acts of bias by the trial court which fall within the time limitation of La. C.C.P. art. 154(A). Thus, we find that the trial judge erred in denying the motion to recuse as untimely.

Accordingly, we grant the relator's writ, vacate the trial court's ruling, and remand the matter for the trial court to either consider the merits of the relator's motion to recuse and render a judgment in compliance with La. C.C.P. art. 154 or to make a written request to the supreme court for the appointment of an ad hoc judge as provided in La. C.C.P. arts. 154 and 155. In all other respects, relief is denied.

Gretna, Louisiana, this 20th day of September, 2022.

JJM
SMC
FHW

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
ROBERT A. CHAISSON
STEPHEN J. WINDHORST
HANS J. LILJEBERG
JOHN J. MOLAISSON, JR.

JUDGES



FIFTH CIRCUIT
101 DERBIGNY STREET (70053)
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GRETNA, LOUISIANA 70054
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CURTIS B. PURSELL
CLERK OF COURT

SUSAN S. BUCHHOLZ
INTERIM CHIEF DEPUTY CLERK

LINDA M. WISEMAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

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NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **09/20/2022** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

22-C-442

E-NOTIFIED

24th Judicial District Court (Clerk)
Honorable Nancy A. Miller (DISTRICT JUDGE)
Shaye R. Lirette (Relator)

MAILED

Michael Salisbury (Respondent)
In Proper Person
39 Emma Street
Binghamton, NY 13905