

SUPREME COURT OF LOUISIANA

No. 2019-C-01886

GLOBAL MARKETING SOLUTIONS, L.L.C.

VS.

CHEVRON U.S.A. INC., EXXON MOBIL CORPORATION, KEY
PRODUCTION COMPAY, INC., SEAL ENERGY COMPANY, AND
WARREN OPERATING COMPANY

ON WRIT OF CERTIORARI TO THE COURT OF APPEAL, FIRST
CIRCUIT, PARISH OF WEST BATON ROUGE

Crichton, J., dissents and assigns reasons:

I disagree with the majority of this Court’s decision to recuse Justice William Crain in this matter and would deny the motion.¹ In my view, recusal is neither required by the Louisiana Code of Civil Procedure, *see* La. C.C.P. art. 151(A)(4) (“a judge shall be recused when he is “biased or prejudiced toward or against the parties or the parties’ attorneys to such an extent that he would be unable to conduct fair and impartial proceedings”), or federal law, *see Rippo v Baker*, __ U.S. __, 137 S.Ct. 905, 197 L.Ed. 2d 167 (2017) (the only constitutionally permissible inquiry to be applied at the recusal hearing is, “objectively speaking, ‘the probability of **actual bias** on the part of the judge or decision maker is too high to be constitutionally tolerable’”) (emphasis added). *See also LaCaze v Louisiana*, __U.S.__, 138 S.Ct. 60, 199 L.Ed. 2d 1 (2017); *State v LaCaze*, 16-0234 (La. 3/3/18), 239 So.3d 807, 813, cert. denied, 139 S. Ct. 321, 202 L.Ed. 218 (2018). Despite the moving parties’ assertions to the contrary, Justice Crain’s sworn Affidavit demonstrates that he “can and will fairly and impartially decide any issues presented – in these cases based

¹ Retired Judge James Boddie, Jr., appointed Justice Pro Tempore for Justice Marcus R. Clark, also voted to deny the recusal motion.

solely on the facts and law applicable to the same.”² A campaign mailer such as the one at issue here cannot – and should not – be the basis of recusal.

The majority’s decision to grant recusation under these circumstances, notwithstanding our colleague’s sworn statement, is misguided, if not patently wrong, as neither federal case law or state law requires it. Accordingly, I dissent from the majority’s decision and would deny the recusal motion.

² The cases to which the moving parties are referring are the “legacy lawsuits,” which identify the litigation brought by landowners seeking to require oil and gas companies to pay for restoration of land that has been environmentally compromised.