

The Supreme Court of the State of Louisiana

**DR. RALPH SLAUGHTER, ON BEHALF OF
HIMSELF AND ALL OTHERS SIMILARLY
SITUATED**

No. 2024-OC-00358

VS.

**LOUISIANA STATE EMPLOYEES'
RETIREMENT SYSTEM, ITS FIDUCIARIES,
ABC INSURANCE COMPANY, THE CLERKS
OF COURT FOR ALL DISTRICT, APPELLATE,
AND SUPREME COURTS, THE JUDICIAL
ADMINISTRATOR, 123 INSURANCE
COMPANY, AND XYZ INSURANCE COMPANY**

IN RE: Ralph Slaughter - Applicant Plaintiff; Applying For Supervisory Writ, Parish
of East Baton Rouge, 19th Judicial District Court Number(s) 727578, Court of
Appeal, First Circuit, Number(s) 2023 CA 1167, 2023 CA 1168;

May 21, 2024

Writ application denied. See per curiam.

JTG

JLW

JDH

SJC

WJC

JBM

PDG

Supreme Court of Louisiana

May 21, 2024



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2024-OC-00358

**DR. RALPH SLAUGHTER, ON BEHALF OF HIMSELF AND ALL
OTHERS SIMILARLY SITUATED**

VS.

**LOUISIANA STATE EMPLOYEES' RETIREMENT SYSTEM, ITS
FIDUCIARIES, ABC INSURANCE COMPANY, THE CLERKS OF COURT
FOR ALL DISTRICT, APPELLATE, AND SUPREME COURTS, THE
JUDICIAL ADMINISTRATOR, 123 INSURANCE COMPANY, AND XYZ
INSURANCE COMPANY**

On Supervisory Writ to the 19th Judicial District Court, Parish of East Baton
Rouge

PER CURIAM

We exercised our plenary supervisory jurisdiction to call this case up in order to determine whether recusal of the judges of the lower courts is mandated. For the reasons that follow, we deny the motions to recuse and remand the case to the court of appeal for further proceedings.

UNDERLYING FACTS AND PROCEDURAL HISTORY

The merits of this matter are not currently before this court. However, a brief review of the underlying facts is helpful in order to understand the context of the recusal motions.

Plaintiff, Dr. Ralph Slaughter, filed this pro-se action in the 19th Judicial District Court for the Parish of East Baton Rouge “on behalf of himself and all others similarly situated.” As defendants, plaintiff named the Louisiana State Employees Retirement System (“LASERS”), its fiduciaries (including its board of trustees and certain staff members), the clerks of courts for all courts at the district and appellate levels in their official capacities, the Judicial Administrator of this court in her official capacity and various unnamed insurers. Essentially, plaintiff alleges that the

judges' supplemental pay from the Judicial Compensation Fund is being improperly included by LASERS in calculating the judges' retirement benefits. He seeks declaratory and injunctive relief.

After the case was randomly allotted, plaintiff filed a motion to recuse the district court judge on the ground that the judge was a member of LASERS and therefore had an interest in the outcome of the litigation. The district court denied the motion to recuse as being invalid on its face. The court then proceeded to consider defendants' exceptions to plaintiff's suit, including exceptions of res judicata and no right or cause of action. The district court granted these exceptions and dismissed certain defendants from the litigation with prejudice.

Plaintiff filed separate appeals in the Court of Appeal, First Circuit seeking review of the judgment denying the motion to recuse and the judgment granting the exceptions. At the same time, plaintiff filed motions in each appeal to recuse the judges of the court of appeal.

Upon motion of the chief judge of the court of appeal, we appointed Judge John J. Molaison, a sitting judge of the Court of Appeal, Fifth Circuit, to hear the motion to recuse as judge ad hoc pursuant to La. Code Civ. P. art. 158. Plaintiff then filed a motion to recuse Judge Molaison.

The chief judge filed a motion in this court seeking appointment of an ad hoc judge to hear the motion to recuse Judge Molaison. Pursuant to that request, we appointed Judge Rachael Johnson, a sitting judge of the Court of Appeal, Fourth Circuit, as judge ad hoc. Plaintiff responded by filing a motion to recuse Judge Johnson.

Recognizing the inability to resolve this matter through normal procedures, we elected to assume jurisdiction over the recusal issue pursuant to our plenary authority under La. Const. art. V, § 5(A), which grants this court "general supervisory jurisdiction over all other courts." *See Texas Brine Co., LLC v. Naquin,*

2019-1503 (La. 1/31/20), 340 So. 3d 720, 726–27 (“[i]t is well recognized the constitutional grant of supervisory authority to this court is plenary, unfettered by jurisdictional requirements, and exercisable at the complete discretion of the court.”).

Pursuant to this authority, we directed the court of appeal to file the relevant portions of the record with this court. We also directed the parties to file briefs and allowed them an opportunity to request oral argument. Defendants filed their brief within the deadline specified and did not request oral argument.

Plaintiff did not file a brief or request oral argument but filed a motion to recuse all justices of this court. Because the motion to recuse raises the same issues as the other recusal motions, we referred this motion to the merits.

DISCUSSION

Although plaintiff has filed several motions to recuse at different levels of the judiciary, his motions raise virtually identical grounds. Essentially, he argues that because the judges’ supplemental compensation payments to LASERS for their retirement contribution is the subject of his lawsuit, the judges must be recused because they are biased, prejudiced or interested in the cause to the extent they would be unable to conduct fair and impartial proceedings.

We question whether plaintiff has satisfied his burden of establishing grounds for recusal under La. Code Civ. P. art. 151. However, we need not resolve that issue at this time. Even accepting plaintiff’s allegations as true, we are compelled to deny his motions to recuse under the Rule of Necessity, which provides a judge is qualified to decide a case even if he or she would normally be impeded from doing so when the case cannot be heard otherwise. *See Switzer v. Berry*, 198 F.3d 1255, 1258 (10th Cir. 2000).

The Rule of Necessity was discussed by the United States Supreme Court in

United States v. Will, 449 U.S. 200, 213–15 (1980):

The Rule of Necessity had its genesis at least five and a half centuries ago. Its earliest recorded invocation was in 1430, when it was held that the Chancellor of Oxford could act as judge of a case in which he was a party when there was no provision for appointment of another judge. Y.B.Hil. 8 Hen. VI, f. 19, pl. 6.¹⁴ Early cases in this country confirmed the vitality of the Rule.

The Rule of Necessity has been consistently applied in this country in both state and federal courts. In *State ex rel. Mitchell v. Sage Stores Co.*, 157 Kan. 622, 143 P.2d 652 (1943), the Supreme Court of Kansas observed:

“[I]t is well established that actual disqualification of a member of a court of last resort will not excuse such member from performing his official duty if failure to do so would result in a denial of a litigant's constitutional right to have a question, properly presented to such court, adjudicated.” *Id.*, at 629, 143 P.2d, at 656.

Similarly, the Supreme Court of Pennsylvania held:

“The true rule unquestionably is that wherever it becomes necessary for a judge to sit even where he has an interest—where no provision is made for calling another in, or where no one else can take his place—it is his duty to hear and decide, however disagreeable it may be.” *Philadelphia v. Fox*, 64 Pa. 169, 185 (1870).

Other state and federal courts also have recognized the Rule. [footnotes omitted].

Applying the Rule of Necessity, the Supreme Court in *Will* found that federal judges were not disqualified from addressing whether Congress may repeal or modify a statutorily defined formula for annual cost-of-living increases in the compensation of federal judges, even though the judges had a financial interest in the outcome. In doing so, the Court observed that the adoption of the provision for

disqualification of judges under 28 U.S.C. § 455 was “not intended by Congress to alter the time-honored Rule of Necessity.” *Id.* at 202.

Although the Rule of Necessity has its origin in common law, we have recognized it applies in Louisiana. *See Adams v. CSX Railroads*, 2012-0139 (La. 4/13/12), 84 So. 3d 1289, 1290 n. 3.

The unique circumstances of the instant case clearly require application of the Rule of Necessity. Plaintiff asserts every sitting and retired judge in the state, both at the district and appellate level, may have some potential financial interest in the outcome of the suit. As aptly noted by the court in *Pilla v. American Bar Ass'n*, 542 F.2d 56, 59 (8th Cir. 1976), “where all are disqualified, none are disqualified.”

Applying the Rule of Necessity, we must therefore deny all of plaintiff’s motions to recuse.

DECREE

For the reasons assigned, all of plaintiff’s motions to recuse the judges of the district court, court of appeal and this court are hereby denied. In light of this ruling, our orders appointing ad hoc judges to hear the motions to recuse are recalled and vacated. The case is remanded to court of appeal for further proceedings.