

Fifth Circuit Court of Appeal State of Louisiana

No. 25-C-617

MARY HOTARD BECNEL, AS INDEPENDENT EXECUTRIX OF
THE SUCCESSION OF DANIEL E. BECNEL, JR.

versus

CAMILO K. SALAS III

IN RE CAMILO K. SALAS III
APPLYING FOR A SUPERVISORY WRIT TO THE FORTIETH JUDICIAL DISTRICT COURT,
PARISH OF ST JOHN THE BAPTIST, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE
JAMES E. KUHN, AD-HOC JUDGE, DIVISION "A", No. 70,582

TRUE COPY

July 30, 2026



LINDA TRAN
DEPUTY CLERK

Panel composed of Judges Jude G. Gravois,
Marc E. Johnson, and Stephen J. Windhorst

WRIT DENIED

Defendant/relator, Camilo Salas III, seeks review of the trial court's December 5, 2025 judgment denying his motion to recuse the Honorable Michael E. Kirby, *Ad Hoc*, from this lawsuit. For the following reasons, we deny this writ.

BACKGROUND

On August 28, 2025, Mr. Salas filed a motion to recuse the Honorable Michael E. Kirby, *Ad Hoc*, from this lawsuit. According to the motion, Mr. Salas filed the motion to recuse soon after this court rendered its August 13, 2025 writ disposition, reversing Judge Kirby's August 11, 2025 rulings, which granted the motion to strike the jury demand filed by plaintiff/respondent, Mary Hotard Becnel and denied Mr.

Salas' motion to continue trial. In the motion, Mr. Salas also alleged that on April 15, 2019 (six years before the August 11, 2025 rulings), after a hearing in this case, Judge Kirby, Mrs. Becnel, and her attorney, Kevin Klibert, had an *ex parte* meeting for more than 30 minutes in Mrs. Becnel's office at the 40th Judicial District Court. At the time, Mrs. Becnel served as an *Ad Hoc* Judge in Division "B" for the 40th JDC. This alleged *ex parte* meeting is the primary basis for the motion to recuse.

Mr. Salas claimed that Judge Kirby and Mrs. Becnel have known each other since at least 2014, when Judge Kirby presided over a disqualification action filed against Mrs. Becnel during her candidacy for re-election as a 40th JDC judge.

Mr. Salas also referred to two instances when Judge Kirby did not properly render a written scheduling order: (1) by failing to enter a proposed scheduling order prepared by respondent's attorney, Mr. Klibert, and sent to Judge Kirby after the December 28, 2022 telephone scheduling conference (which order was never signed by Judge Kirby); and (2) by failing to enter a scheduling order after Judge Kirby *sua sponte* continued the trial on October 18, 2024, during a court hearing/conference.

Mr. Salas further referred to Judge Kirby's ruling to re-open discovery when Mrs. Becnel sought to take a deposition after the discovery cutoff. Mr. Salas points out that Judge Kirby, in granting the motion to strike, indicated that he believed Mr. Salas, as the party requesting the jury trial, should have called the request to the court's attention, so the court could issue the order for the establishment of the bond. This court, however, indicated that the trial court's failure to issue the jury bond order resulted in Mr. Salas never having an opportunity to comply with it.

DISCUSSION

La. C.C.P. art. 151 sets forth the grounds for recusal of judges, while La. C.C.P. art. 154 sets forth the procedure. La. C.C.P. art. 151 provides in pertinent part:

A. A judge of any trial or appellate court shall be recused upon any of the following grounds:

* * *

(4) The judge is biased, prejudiced, or interested in the cause or its outcome or biased or prejudiced toward or against the parties or the parties' attorneys or any witness to such an extent that the judge would be unable to conduct fair and impartial proceedings.

B. A judge of any trial or appellate court shall also be recused when there exists a substantial and objective basis that would reasonably be expected to prevent the judge from conducting any aspect of the cause in a fair and impartial manner.

La. C.C.P. art. 154 provides:

A. A party desiring to recuse a judge of a district court shall file a written motion therefor assigning the ground for recusal under Article 151. This motion shall be filed no later than thirty days after discovery of the facts constituting the ground upon which the motion is based, but in all cases prior to the scheduling of the matter for trial. In the event that the facts constituting the ground upon which the motion to recuse is based occur after the matter is scheduled for trial or the party moving for recusal could not, in the exercise of due diligence, have discovered such facts, the motion to recuse shall be filed immediately after such facts occur or are discovered.

We review the denial of a motion to recuse for an abuse of discretion. Vincent v. National General Insurance Company, 23-554 (La. App. 5 Cir. 10/9/24), 399 So.3d 140, 149, writ denied, 24-1441 (La. 2/19/25), 400 So.3d 933. A judge is presumed to be impartial. Id. To rebut that presumption, the party moving for recusal has the burden of introducing evidence to prove facts constituting grounds for recusal, and cannot rely on mere allegations or conclusory opinions. O'Dwyer v. Metairie Towers Condo. Ass'n, 26-94 (La. App. 5 Cir. 4/27/26), — So.3d —. La. C.C.P. art. 151 requires actual bias or prejudice—"substantial appearance of the possibility of bias" or the "mere appearance of impropriety" is insufficient to remove a judge from presiding in a given action. Lepine v. Lepine, 17-45 (La. App. 5 Cir. 6/15/17), 223 So.3d 666, 673.

Upon review, we agree with the trial court's finding Mr. Salas' motion to recuse untimely. First, the primary basis for Mr. Salas' motion to recuse is the alleged 2019 *ex parte* meeting between Judge Kirby, Mrs. Becnel, and Mr. Klibert. The writ application indicates Mr. Salas knew about this alleged meeting on April 15, 2019 when he purportedly observed these individuals enter an office at the 40th

JDC. Mr. Salas did not move to recuse Judge Kirby within 30 days of that knowledge.

Second, complaints of adverse rulings alone are insufficient to establish bias to recuse a trial judge. Lepine, 17-45 (La. App. 5 Cir. 6/15/17), 223 So.3d 666, 674. Mr. Salas relies on the trial court's adverse rulings striking his jury request and denying his motion for continuance as factors prompting the recusal motion. The trial court's rulings on these motions are insufficient to support a motion to recuse. Mr. Salas refers to other adverse court rulings, *e.g.* the re-opening of discovery, but he did not file a motion to recuse within 30 days of any other rulings. In addition, to the extent Mr. Salas' motion to recuse is premised on his dissension regarding certain adverse judgments, we find the trial court did not abuse its discretion in denying the motion to recuse because the alleged bias or prejudice is not of an extrajudicial nature as would warrant recusal. Tamporello v. State Farm Mut. Auto Ins. Co., 95-458 (La. App. 5 Cir. 11/15/95), 665 So.2d 503, 507.

Third, Mr. Salas asserts that Judge Kirby and Mrs. Becnel have known each other since at least 2014, when Judge Kirby presided over a disqualification case filed against Mrs. Becnel. Mr. Salas presents no facts to support that Judge Kirby and Mrs. Becnel have a relationship which would result in a substantial and objective basis that would reasonably be expected to prevent Judge Kirby from conducting any aspect of the cause in a fair and impartial manner. La. C.C.P. art. 151 B, Anderson v. Dean, 22-233 (La. App. 5 Cir. 7/25/22), 346 So.3d 356, 367. The word "substantial" means something of substance, material, real, and not imaginary. Id. at 369. "Objective" is defined as something externally verifiable, as opposed to the feelings of one individual. Id. "Substantial" and "objective" require that the mover support his motion to recuse with material evidence, not mere allegations, and that the claims be externally verifiable, as opposed to the feelings of one individual. Id. "Basis" means some foundation or starting point on which something may rest. Id.

This is a broad term clearly intended to cover more instances than solely “bias.” Id. Lastly, the phrase “reasonably expected” recognizes that there may be substantial and objective bases claimed that a neutral observer would not expect to prevent the trial judge from trying the cause in a fair and impartial manner. Id.

Considering the foregoing, we find no abuse of discretion in the denial of the motion to recuse Judge Kirby.

CONCLUSION

Because the motion to recuse was untimely and failed to state facts constituting a ground for recusal under La. C.C.P. art. 151 A(4) or B, we find the trial court did not abuse its discretion in denying the motion to recuse Judge Kirby. We therefore deny this writ application.

Gretna, Louisiana, this 30th day of July, 2026.

SJW
JGG
MEJ

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
SCOTT U. SCHLEGEL
TIMOTHY S. MARCEL

JUDGES



FIFTH CIRCUIT
101 DERBIGNY STREET (70053)
POST OFFICE BOX 489
GRETNA, LOUISIANA 70054
www.fifthcircuit.org

CURTIS B. PURSELL
CLERK OF COURT

SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

LINDA M. TRAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

(504) 376-1400
(504) 376-1498 FAX

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 **07/30/2026** 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:

A handwritten signature in blue ink, reading "Curtis B. Pursell", is written over a horizontal line.

CURTIS B. PURSELL
CLERK OF COURT

25-C-617

E-NOTIFIED

40th District Court (Clerk)
Honorable James E. Kuhn (DISTRICT JUDGE)
Honorable Vercell Fiffie (DISTRICT JUDGE)
Camilo K. Salas, III (Relator)
Kevin P. Klibert (Respondent)

MAILED