24A788
No. 24A682

IN THE SUPREME COURT OF THE UNITED STATES

October Term 2025

DEON D. COLVIN

V.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

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EMERGENCY APPLICATION FOR A STAY OF JANUARY 15TH RULINGS & FURTHER PROCEEDINGS IN THE D.C. SUPERIOR COURT FOR CASE # 2019-CA-008113 B, PENDING THE FILING & DISPOSITION OF APPLICANT'S PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT

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DIRECTED TO THE HONORABLE JOHN ROBERTS, CHIEF JUSTICE OF THE SUPREME COURT AND CIRCUIT JUSTICE FOR THE D.C. CIRCUIT PURSUANT TO RULE 23(3)

****

DEON D. COLVIN
Pro Se Applicant
(Non-Attorney)

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APPLICATION FOR A STAY OF PROCEEEDINGS IN THE D.C. SUPERIOR COURT[1] [2]

To the Honorable John Roberts, Chief Justice of the Supreme Court and Circuit Justice for

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[1] Petitioner is *pro se*. The pleadings of *pro se* litigants are provided liberal construction by the Court. *Haines v. Kerner*, 404 U.S. 519, 520-521 (1972) ("allegations of the *pro se* complaint...we hold to less stringent standards than formal pleadings drafted by lawyers"); *Erickson v. Pardus*, 551 U.S. 89, 94 (2007)("A document filed *pro se is* to be liberally construed, and a *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers"); *Hall v. Bellmon*, 935 F. 2d 1106, 1110, n.3 (10th Cir. 1991)("The *Haines* Rule applies to all proceedings involving a *pro se* litigant.").

[2] On February 4th, 2025, the Applicant filed Petitioner's Motion for Reconsideration of the Court's February 3rd Order Denying a Stay of Proceedings with the D.C. Court of Appeals on its denial of stay, which is currently pending. This Court will consider a motion for stay while a lower court reconsiders its ruling.

the District of Columbia Circuit:

Under this Court's Rules 20, 22, and 23 as well as 28 U.S.C. § 1254 (1), 28 U.S.C.§ 1651 (a) and 28 U.S.C. § 2101 (c), Petitioner Deon D. Colvin ("Petitioner") respectfully requests an order staying Judge Donald W. Tunnage's ("Respondent's") January 15th, 2025 rulings, directives and scheduling of a pre-trial conference for April 9th, 2025 (hereinafter collectively referred to as "Rulings") and further proceedings in the D.C. Superior Court for case # 2019-CA-008113 B, pending the filing and disposition of a petition for writ of certiorari for D.C. Court of Appeals Case #24-OA-0016. The relief sought—a stay of Judge Tunnage's January 15th rulings and further proceedings—was first sought in the D.C. Court of Appeals on January 29th, 2025, via a document titled Motion for Stay of Proceedings & Judge Tunnage's January 15th Rulings Pending Disposition of Petitioner's Petition for Writ of Certiorari. The D.C. Court of Appeals denied the motion. *See* Appendix 1. The ruling sought to be reviewed by certiorari is the D.C. Court of Appeals' Denial of my Fourth Petition for Writ of Mandamus, and by extension Judge Tunnage's June 26th 2024 rulings denying my Amended Opposed Motion to Disqualify Judge Donald W. Tunnage and Opposed Second Motion to Disqualify Judge Donald W. Tunnage. *See* Appendix 1 and 2. The relief sought—a stay of Judge Tunnage's Rulings and further proceedings—is not available from any other Court because the need for a stay came after Judge Tunnage abruptly and erroneously denied my *Third* and *Fourth Motions for Disqualification* on January 15th, 2025 and then issued Rulings, one of which called Defendant to produce responses to my discovery requests by February 15th, 2025. *See* Appendix 3 at 2. The purpose of a stay is to maintain the status quo between the parties, while a tribunal considers a matter of great import. Al-Shareef v. Bush, No. 05-2458, 2006 WL 3544736 a #1 (D.D.C. 2006)("A primary purpose of a stay pending resolution of issues on Appeal is to preserve the status quo among the parties."). Thus, it was

impractical to motion for a stay at the trial court level because opposition filings were anticipated, and there would not have been enough time to petition "up the ladder" to this Court for a stay, if necessary. A petition to the only other Court that could grant a motion for stay—the D.C. Court of Appeals—was denied. Thus, Petitioner applies to this honorable Court for a motion for stay pending the filing and disposition of Petitioner's petition for writ of certiorari, which this Court has granted Petitioner an extension of time to file by **March 23rd, 2025**.

REASONS WHY A STAY IS JUSTIFIED & THE FACTS RELIED UPON

A stay is justified for the for the following reasons:

1. Judge Tunnage denied my *Third Motion to Disqualify Judge Donald W. Tunnage* and *Fourth Motion to Disqualify Judge Donald W. Tunnage* ("Motions to Disqualify"), prior to the briefing period prescribed by Super. Ct. R. Civ. P. 12-I. The motions were filed on January 13th and 14th, 2025, respectively, and the judge denied them on January 15th, *before Defendant even received the motions* and could file opposition. Thus, the denials were procedurally improper. *See* Appendix 3 at 1-2.
2. Judge Tunnage denied my motions based on the grounds I was wrong on the facts and the law.[3] Judge Tunnage's ruling on the facts and law is not supported by substantial evidence in the record, and thus the rulings were legally improper and an **ABUSE OF DISCRETION**. Koon v. United States, 518 U.S. 81, 100 (1996)("A district court by definition abuses its discretion when it makes an error of law."); Allen v. Yates, 870 A. 2d 39, 50 (D.C. 2005)("a trial court abuses its discretion when it rests its conclusions on incorrect legal standards").
3. On January 15th, 2025, Judge Tunnage denied my Praecipe Requesting the Immediate

[3] *See* Transcript of January 15th, 2025 Pre-Trial Hearing/Status Conference, which has been ordered and will be available by February 22, 2025.

Disqualification of Judge Donald W. Tunnage ("Praecipe"), which requested Judge Tunnage disqualify immediately from the proceedings based on *his own understanding the facts, circumstances, the federal statute requiring disqualification* (28 U.S.C. 455(a)), *ethical obligations to disqualify etched in* Rule 2.11(A) of the Code of Judicial Conduct, District of Columbia Courts (2018), and D.C. case law, which states a judge should disqualify whenever his impartiality might reasonably be questioned, irrespective of any motion filed. In re MC Appellant, 8 A. 3d 1215 at n. 22 (D.C. 2010) ("we note that a judge has an independent obligation to recuse when required by the Code of Judicial Conduct, whether or not prompted by a party's motion"); Canon 2, Rule 2.11, cmt. [2] of the Code of Judicial Conduct, District of Columbia (2018) ("A judge's obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify is filed."). This denial was legally and ethically improper.

4. On January 15th, 2025, Judge Tunnage issued rulings on prospective motions attached to motions for leave, which he should not have ruled on, **and essentially ruled for Defendant to produce discovery responses and for the parties to execute other directives for prospective motions that have yet to be filed with the Court, and that I have yet to be granted permission to file, and that had not been briefed by the parties pursuant to Rule 12-I**, which was erroneous, procedurally improper, and premature. *See* Appendix 3 at 2.
5. On January 15th, 2025, Judge Tunnage went on to issue other rulings and set a pre-trial conference for April 9th, 2025. This was improper in light of the facts and law presented in my Motions to Disqualify and Praecipe.
6. On January 12th, 2025 I filed an application for an extension of time to file a

petition for a writ of certiorari in this matter, Supreme Court Case # 24A682.

7. On January 15th, 2025, Supreme Court granted my application and extended the time to March 23rd, 2025 to file the Petition. *See* Appendix 4.

8. With a pre-trial conference scheduled for April 9th, I must execute Super. Ct. R. Civ. P. 16 (c)-(e) requirements starting in March (*e.g.*, meet with Defendant's counsel, exchange documentary exhibits, file a joint pre-trial statement, file motions in *limine*, prepare *voir dire* questions, etc.) around the same time my petition for certiorari is to be submitted. *See* Appendix 3 at 2 and Appendix 5 at 3-4.

9. Prior to these events, if as stay is not granted I will need to file a Rule 60 motion or motions requesting reconsideration of Judge Tunnage's (1) legally erroneous and procedurally improper denial of my Motions to Disqualify, (2) wrongful directives based on prospective motions that I have not been granted permission to file, and (3) file a motion for my Praecipe of Disputed Requests per the Court's orders. *See* Appendix 3 at 2.

10. This Court granted me an extension of time to file my petition for writ of certiorari because I am *pro se, in forma pauperis*, I have no computer, I draft my documents at the D.C. public library where there is a 20-page printing limit, my writ of mandamus for that a case is 400 pages, and it was not possible for me to produce the 13 copies I would need for Supreme Court requirements for a petition for a writ of certiorari in the 90-day time allotted. *See* Appendix 6 at 2-3.

11. **If a stay is not granted I will not have the time or resources to file a writ of certiorari for this case. I will essentially be constructively deprived of my right to self-representation before this Court in this matter, a right I am guaranteed by statute. 28 U.S.C. 1654 ("In all courts of the United States the parties may plead and conduct**

their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct their causes therein.").

12. Thus, for reasons noted in ¶ 1-5, a stay of the January 15th rulings is justified.

13. Thus, for reasons noted in ¶6-11 a stay of further proceedings is justified.

14. Thus, I request a stay of Judge Tunnage's January 15th, 2025 Rulings and further proceedings until the filing and disposition of my petition for writ of certiorari.

REASONS WHY A STAY IS JUSTIFIED—PART II: LEGAL ARGUMENT IN SUPPORT OF A STAY

"To obtain a stay pending the filing and disposition of a petition for a writ of certiorari, an applicant must show (1) a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari; (2) a fair prospect that a majority of the Court will vote to reverse the judgement below; and (3) a likelihood that irreparable harm will result from the denial of a stay. In close cases the Circuit Justice of the Court will balance the equities and weigh the relative harms to the applicant and to the respondent. Hollingsworth v. Perry, 558 U.S. 183, 190 (2010); 130 S. Ct. 705, 710 (2010).

I. THERE IS A REASONABLE PROBABILITY THAT FOUR JUSTICES WILL CONSIDER THE ISSUE SUFFICIENTLY MERITORIOUS TO GRANT CERTIORARI

There is a reasonable probability that four Justices will consider the issues sufficiently Meritorious to grant certiorari because the petition involves an instance where the D.C. Court of Appeals has "decided an important question of federal law in a way that conflicts with relevant decisions of the Supreme Court," which is one of the major reasons the Court grants certiorari. *See* S. Ct. Rule 10 (c). Specifically, the Court used its "overpowering" standard (or appears to be asserting such) to say the Applicant did not meet the "extreme circumstances" and

"clear and indisputable" conditions necessary to justify a writ of mandamus. The Court's "overpowering" standard, which says that for intra-judicial claims of appearance of bias that the Judge's actions must be so extreme "the bias appears to have become overpowering," is vague and undefined. Nowhere in the Court's Order does the court define, explain, or illustrate what "appears to have become overpowering" means or when this is detectable. *See* Appendix 7. Nor is it defined, explained, or illustrated in the case the court cites in in the Order (Plummer v. United States), nor is it illustrated in Whitaker v. McLean, which is cited in Plummer. Thus, the D.C. Court of Appeals employed an undefined, unelaborated, unillustrated and thus unclear, subjective, and unfair standard to deny my petition for writ of mandamus, when it was obligated to use the "objective observer" and "favoritism and antagonism" standards articulated by this Court to assess the validity of my § 455 (a) appearance of bias claims not claiming an extrajudicial source that comprised my Petition. *See* Liteky v. United States, 510 U.S. 540, 551, 555-6 (1994). A vague and undefined standard is an inherently subjective and thus unfair one; and one that lends itself to bias, which is in direct contradiction with Congress' goal,this Court's goal, and even the D.C. Court of Appeals' goal to have an objective standard for judicial disqualification. *See* Liljeberg v. Health Services Acquisition Corp, 486 U.S. 847, 858-9 and n. 7; Scott v. U.S., 559 A. 2d 745, 748-749 (D.C. 1989)("The necessity for recusal in a case is based on an objective standard."). Thus, this case presents a significant legal question of whether a state court can substitute its own vague and undefined criteria of evaluation ahead of Supreme Court precedent (Liteky, Liljeburg) and deny § 455 (a) claims of appearance of bias without employing said precedent, thus, in effect adopting a new standard and putting itself in conflict with this Court's precedent.

A second reason there is a reasonable probability that four Justices will consider the issues sufficiently meritorious to grant certiorari is because this is a case where the D.C. Court of Appeals

has "sanctioned" the D.C. Superior Court "departing so far from the accepted and usual course of judicial proceedings as to call for an exercise of the Court's supervisory power," which is another major reason why this Court grants certiorari. *See* S. Ct. Rule 10 (a). The facts and circumstances of my claims show that Superior Court Judge Donald W. Tunnage refused to give my *pro se, in forma pauperis* complaint liberal construction, pursuant to *Haines v. Kerner*, and refused to allow full briefing by the parties on my opposed motions, and instead often ruled on the motions a day or a few days after filing[4], which is in direct contradiction to Super. Ct. R. Civ. Procedure Rule 12-I (e) and (g), which says the non-moving party must file an opposition (or risk conceding), and the movant may file a reply. *See* Appendix 8 at 1.

This Court takes seriously its supervisory role, particularly with respect to the Rules of Civil Procedure. Hollingsworth v. Perry,130 S. Ct. 705, 713 (2010)("This Court has a significant interest in supervising the administration of the judicial system."....This Court's interest in ensuring compliance with proper rules of judicial administration is particularly acute when those rules are related to the integrity of judicial processes."). The Court understands that a Judge's failure to follow established rules of civil procedure "...could compromise the orderly decorous, rational traditions that court's rely on to ensure the integrity of their own judgments," and thus holds, "If courts are to require that others follow regular procedures, courts must do so as well." *Id.* at 713, 715. So, because my complaint details Respondent's willful, persistent and pervasive refusal to follow Supreme Court case law regarding the liberal interpretation of *pro se* complaints and a major rule of civil procedure (D.C. Super Ct. Rule 12-I), four justices might consider the issues meritorious for certiorari.

Last, but not least, my petition involves claims of the appearance of racial bias that were not acknowledged or addressed by the D.C. Court of Appeals. There, I elaborate in Claim #3 that *Respondent refused to even consider three (3) of my Rule 60(b)(6) motions* seeking relief because

[4] For a recent example of Respondent's ultra-quick adjudications, see ¶ 1.

of it, and I substantiate my claim based on the racial dynamics of the case. This Court views racial bias a serious problem in our judicial system that must be addressed. *See* Pena-Rodriquez v. Colorado, 580 U.S. 206, 224 (2017)("Racial bias...implicates unique historical, constitutional, and institutional concerns, and, **if left unaddressed**, would risk systemic injury to the administration of justice.")("But while all forms of improper bias pose challenges to the trial process, there is a sound basis to treat racial bias with added precaution."). Thus, there is a reasonable probability that four Justices of the Court will consider the case meritorious for this very important reason as well.

II. THERE IS A FAIR PROSPECT THAT A MAJORITY OF THE COURT WILL VOTE TO REVERSE THE JUDGMENT BELOW

There is a fair prospect that a majority of the Court will vote to reverse the judgment below for several reasons.

First, as noted above, the Court below employs an "overpowering" standard for my § 455(a) motions that is not defined and thus is subjective, which is contrary to its own case law and federal case law, which bases judicial disqualification on an objective standard.

Second, the Court never employs the federal standards, *i.e.*, the "objective observer" and "favoritism and antagonism" standards. This makes the Court's ruling inherently flawed from a deliberative standpoint and inherently illegal. Thus, the Court may reverse for this reason as well.

Third, the D.C. Court of Appeals sanctioned the Respondent using the six (6) claims of the appearance of bias in my Amended Opposed Motion to Disqualify Judge Donald W. Tunnage to deny the eight (8) claims in my Opposed Second Motion to Disqualify Donald W. Tunnage, even though these were separate motions with different claims. *See* Appendix 2 at 2 ("The Court finds that Plaintiff's six 'claims' of bias, which are enumerated in the January 11, 2024

MOTION, all concern Plaintiff's disagreements with this Court's prior judicial rulings. Consequently, the Court denies Plaintiff's MOTIONS TO DISQUALIFY."). This contradicts this Court's precedent in *Litecky* where it considered two separate complaints of bias by the Petitioner, and considered each complaint separately and considered each claim in the different complaints separately. *See* Litecky, 510 at 556.

Fourth, the fourteen (14) claims of appearance of bias that will comprise my petition (*e.g.*, (1) Respondent decided prematurely on the issue of punitive damages, (2) Respondent did not construe my complaint liberally, (3) the Court refused to consider three (3) rule 60(b)(6) motions for relief when it was required to do so per D.C. law, etc. (4) Respondent refused to allow me to file a reply brief, (5) Respondent refused to apply relevant case law in rendering a decision on a Rule 60 motion, etc.) are *all different from the claims of bias this Court dealt with and denied in Liteky*.[5] The claims are not all based on rulings and are more substantive and indicative of the appearance of bias by the Respondent.

Thus, for these very significant reasons, there is a fair prospect that a majority of the Court will vote to reverse the judgment below.

III. THERE IS A LIKELIHOOD THAT IRREPARABLE HARM WILL RESULT FROM THE DENIAL OF A STAY

There is strong likelihood that irreparable harm will result from denial of a stay. I have been granted an extension of time until **March 23rd, 2025** to file a writ of certiorari in in this matter: The grounds for that extension were that I am *in informa pauperis*, I currently have no computer, I used the D.C. Public Library to draft legal documents, I am limited to printing 20 pages per day

[5] In *Liteky*, Petitioner's first recusal motion was based solely on the judges' rulings. Petitioner's second recusal motion based on "statements the Judge uttered during trial, his admonishment of Petitioner's counsel and codefendants, questions he put to certain witnesses, an "alleged anti-defendant tone," his cutting off of testimony said to be relevant to defendant's state of mind, and his post-trial refusal to allow petitioners to appeal *in forma pauperis*." These are all different from my claims.

per the library's limit, and at that rate I was unable to produce a copy of my 400-page writ of mandamus and other documents the Court requires for a certiorari petition in the allotted 90-day period. *See* Appendix 5 at 2-3. **If a stay of proceedings is not granted, it will be impossible for me to file a writ of certiorari by March 23rd**, as I will need to file (1) Rule 60 motions for reconsideration with Respondent on his errant rulings on my *Third* and *Fourth Motions to Disqualify* and motions for leave, (2) a discovery motion on my Praecipe of Disputed Requests per the Court's January 15th ruling, *see* Appendix 3 at 2, and, (3) because a pre-trial conference is scheduled for April 9th, 2025, prepare for Rule 16 pre-trial conference proceedings (e.g. meeting with opposing counsel to exchange documentary exhibits, joint preparation of pre-trial statement, prepare *voir dire* questions, motion in *limine*, etc.) in March 2025, around the time my petition is due.

Thus, unless a stay is granted, my opportunity to file a petition for a writ of certiorari this Court will be irretrievably lost and I will suffer irreparable harm by not being able to represent myself in this matter. This Court does not allow any further extensions of time, so a lack of a stay will constructively impede my right to self-representation before the Court, a right guaranteed by statute. See 28 U.S.C. § 1654 ("In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.")

A second reason I will suffer irreparable harm if a stay is that I have been traumatized by the fourteen (14) claims of appearance of bias that have occurred over two years Respondent has been Judicial Officer in this matter. I'm not a lawyer, and have no legal experience. I'm in the legal system for the first time on my own. My claims of appearance of bias, the factual accuracy of which has never been challenged by Respondent, Defendant's counsel, or the D.C. Court of Appeals, in which: (1) my damage claim for punitive damages was decided

Praecipes

by Respondent (based on Respondent directed the parties to file) before discovery was complete and I could fully cognize my complaint and file for leave to amend; (2) Respondent refused to allow liberal construction of my *pro se* complaint (3) Respondent's flat-out refusal to consider three of my Rule 60 (b)(6) motions for relief, which he was required to do by D.C. Court of appeals case law; (4) Respondent's retreat from his claim that he allows full briefing by the parties on motions, and his refused to allow full briefing on almost all my motions); (5) Respondent's interference in my discovery attempts by suspending discovery, not acknowledging pronouncements he made regarding my outstanding discovery requests; (6) refusing to hold hearings on my discovery requests; (7) Respondent's refusal to consider a claim for relief in one of my Rule 60 motions; (8) Respondent's refusal to allow me to file a reply brief on one of my motions, (9) Respondent's refusal to apply the controlling D.C. Court of Appeals case law cited in one of my motions; 10) **Respondent's delay in resolving my outstanding discovery requests from my motions to compel for over two years** (January 2023 -January 2025); *inter alia*, has cause me severe emotional distress and trauma. Appearance of bias is a statutory violation and a violation of my 5th Amendment right to a fair tribunal. Scott v. U.S., 559 A. 2d 745, 754 (D.C. 1989)("the appearance of partiality, and not only partiality, constitutes a statutory violation..."); In re Murchison, 349 U.S. 133, 136 (1955)("A fair trial in a fair tribunal is a basic requirement of due process."). Also, it is well established that when a judge refuses to recuse when he has an apparent bias, it harms the party affected by the bias. *See* In re John Henry Moore, 955 F. 3d 384, 390 (4th Cir. 2020)("...the improper denial of a recusal motion when a judge's impartiality reasonably might be questioned harms not only the defendant, but also the judicial system and the public confidence it enjoys."). I have had to endure the judge's contrary conduct for two years and it has cause me severe emotional distress. I need a stay, for any further violation of my 5th Amendment right to an impartial tribunal

for <u>any</u> length of time will cause me irreparable mental injury and trauma (for I will not be able to comprehend how any legal system could allow such) and in so doing cause is likely to cause me irreparable harm.

IV. IN CLOSE CASES, THE CIRCUIT JUSTICE OR THE COURT WILL BALANCE THE INEQUITIES AND WEIGH THE RELATIVE HARMS TO THE APPLICANT AND TO THE RESPONDENT

The balance of equities favors a stay. Both parties will lose time, but Applicant's right to an impartial tribunal and to at least have time to file a petition for a writ of certiorari outweighs any harm that my come to Defendant from a delay.

V. CONCLUSION

A stay of Respondent's Rulings and proceedings pending the filing and disposition of my petition for writ of certiorari should be granted.

Respectfully Submitted Date

Deon D. Colvin 2-10-25

Deon D. Colvin
Petitioner, Applicant (*Pro Se*)

<u>CERTIFICATE OF SERVICE</u>

I, Deon D. Colvin, certify that I have this day served the foregoing **<u>Emergency Application for Stay of January 15th Rulings and Further Proceedings in the D.C. Superior Court for Case #2019-CA—008113 B, Pending the Filing & Disposition of Applicant's Petition for Writ of Certiorari to the Supreme Court, Appendixes 1-8 (42 page document)</u>** by United States Postal Service, First Class Mail addressed to Respondent's Counsel <u>William P. Cannon III, 7501 Wisconsin Avenue, Suite 1000W, Bethesda MD 20814</u>, and Respondent <u>Hon. Donald W. Tunnage, Assoc. Judge, Superior Court of the District of Columbia, Moultrie Building, Suite #2420, 500 Indiana Avenue, NW Washington, D.C. 20001</u>.

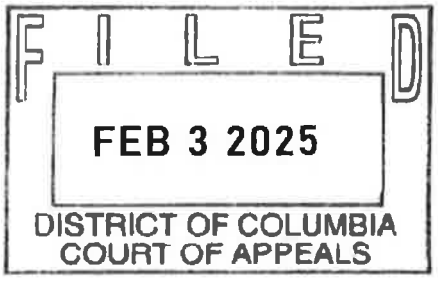
This the 10th day of February, 2025.

Deon D. Colvin

Deon D. Colvin
Petitioner, Applicant (*Pro Se*)

APPENDIX 1

District of Columbia
Court of Appeals



No. 24-OA-0016

IN RE DEON D. COLVIN **2019-CA-008113-B**

BEFORE: Beckwith and Shanker, Associate Judges, and Steadman, Senior Judge.

O R D E R

On consideration of petitioner's motions to stay issuance of the mandate and to stay the lower court proceedings, it is

ORDERED that petitioner's motion to stay the mandate is denied as moot, because the court does not issue a mandate following the denial of a petition for a writ of mandamus. It is

FURTHER ORDERED that the motion for a stay pending disposition of petitioner's not-yet-filed petition for a writ of certiorari is denied. *See Barry v. Washington Post Co.*, 529 A.2d 319, 320-21 (D.C. 1987) ("To prevail on a motion for stay, a movant must show that he or she is likely to succeed on the merits, that irreparable injury will result if the stay is denied, that opposing parties will not be harmed by a stay, and that the public interest favors the granting of a stay.") (citing *In re Antioch Univ.*, 418 A.2d 105, 109 (D.C. 1980)).

PER CURIAM

Copies e-served to:

Honorable Donald Tunnage

William P. Cannon, III, Esq.

cml

Copy mailed to:

Deon D. Colvin
743 Fairmont Street, NW
Apartment 211
Washington, DC 20001

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APPENDIX 2

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

DEON D. COLVIN, **PLAINTIFF,** **V.** **743 FAIRMONT ST NW, LLC,** **DEFENDANTS.**	**Case No. 2019 CA 008113 B** **Judge D. W. Tunnage**

ORDER DENYING MOTIONS TO DISQUALIFY

Pending before the Court are (1) Plaintiff's *AMENDED* OPPOSED MOTION TO DISQUALIFY JUDGE DONALD W. TUNNAGE, filed on January 11, 2024; (2) Plaintiff's OPPOSED SECOND MOTION TO DISQUALIFY JUDGE DONALD W. TUNNAGE, filed on April 19, 2024; and (3) Plaintiff's OPPOSED MOTION FOR IMMEDIATE DISQUALIFICATION & NOTICE OF ADDITIONAL CODE VIOLATIONS, filed on April 30, 2024 (collectively "MOTIONS TO DISQUALIFY"). The MOTIONS TO DISQUALIFY express Plaintiff's opinion that, *inter alia*, the undersigned's management of this case, delay in ruling on Plaintiff's MOTIONS TO DISQUALIFY, and denial of various motions would lead a reasonable observer to question the undersigned's impartiality.

The Court disagrees that these rulings were made in error or that the Court's management of this case gives rise to the appearance of bias against Plaintiff.[1] The District of Columbia Court of Appeals previously held that to require a Judge's recusal due to personal bias or prejudice, "the bias or prejudice must be personal in nature and have its source 'beyond the four corners of the courtroom.'" *Anderson v. United States*, 754 A.2d 920, 925 (D.C. 2000) (citing *Gregory v. United States*, 393 A.2d 132, 142 (D.C. 1978)). The Court finds that Plaintiff's six "claims" of bias, which are enumerated in the January 11, 2024, MOTION, all concern Plaintiff's disagreements with this Court's *prior judicial rulings*. Consequently, the Court denies Plaintiff's MOTIONS TO DISQUALIFY.

Therefore, it is on June 26, 2024, hereby:

ORDERED that Plaintiff's MOTIONS TO DISQUALIFY are **DENIED**.

Judge D. W. Tunnage
(Signed in Chambers)

[1] The Court spent significant time addressing the substantial number of motions Plaintiff filed in this matter. Since the case was transferred in 2023, the Court held 12 separate status hearings and settlement conferences totaling nearly 17 hours.

APPENDIX 3

Case Summary

Case No. 2019-CA-008113-B

09/06/2024
Motion for Leave of Court Filed (Judicial Officer: Tunnage, Donald Walker)
Plaintiff's Motion for Leave of Court to File Paintiff's Motion to Complete Discovery
Docketed on: 09/06/2024
Filed by: Plaintiff Colvin, Deon D.

09/13/2024
Motion for Relief Filed (Judicial Officer: Tunnage, Donald Walker)
From July 8th Order
Docketed on: 09/13/2024
Filed by: Plaintiff Colvin, Deon D.

09/13/2024
Notice to Court (Praecipe) to Withdraw Filed
Notice of Withrawal of Plaintiff's Motion for Relief form July 8th Order
Docketed On: 09/13/2024
Filed By: Plaintiff Colvin, Deon D.

09/17/2024
Order Denying Writ of Mandamus/Prohibition from DCCA

09/17/2024
Motion for Relief Filed (Judicial Officer: Tunnage, Donald Walker)
Plaintiff's Motion for Relief from July 8th Order & For Leave to File Plaintiff's Amended Fourth Motion to Compel Supplemental Discovery
Docketed on: 09/17/2024
Filed by: Plaintiff Colvin, Deon D.

10/10/2024
Notice to Court (Praecipe) Filed
Plaintiff's Notice of Pending Motion
Docketed On: 10/10/2024
Filed By: Plaintiff Colvin, Deon D.

11/16/2024
Motion for Leave of Court Filed (Judicial Officer: Tunnage, Donald Walker)
Plaintiff's Opposed Motion for Leave of Court to File Plaintiff's Motion for Defendant to Identify and Complete its Praecipe Responses
Docketed on: 11/18/2024
Filed by: Plaintiff Colvin, Deon D.

12/09/2024
Motion for Continuance (Judicial Officer: Tunnage, Donald Walker)
Motion for a Continuance of Pretrial Conference
Docketed on: 12/09/2024
Filed by: Plaintiff Colvin, Deon D.

01/13/2025
Motion Filed (Judicial Officer: Tunnage, Donald Walker)
Plaintiff's Third Motion to Disqualify Judge Donald W. Tunnage
Docketed on: 01/13/2025
Filed by: Plaintiff Colvin, Deon D.

01/14/2025
Motion Filed (Judicial Officer: Tunnage, Donald Walker)
Plaintiff's Fourth Motion to Disqualify Judge Donald W. Tunnage
Docketed on: 01/14/2025
Filed by: Plaintiff Colvin, Deon D.

01/14/2025
Notice to Court (Praecipe) Filed
Supplement to Plaintiff's Motion to Complete Discovery
Docketed On: 01/14/2025
Filed By: Plaintiff Colvin, Deon D.

01/14/2025
Notice to Court (Praecipe) Filed
Supplement to Plaintiff's Motion for Continuance of Pre-Trial Conference
Docketed On: 01/14/2025
Filed By: Plaintiff Colvin, Deon D.

Case Summary

Case No. 2019-CA-008113-B

01/15/2025
Remote Pretrial Conference Hearing (2:30 PM) (Judicial Officer: Tunnage, Donald Walker)
MINUTES - 01/15/2025

Remote Pretrial Conference Hearing (04/09/2025 at 2:30 PM) (Judicial Officer: Tunnage, Donald Walker)
Held and Continued;
Journal Entry Details:
Coursmart 516. Plaintiff Colvin present remotely pro se. Attorney Cannon present remotely for Defendant. Plaintiff's Third and Fourth Motions to Disqualify, filed 1/13/2025 and 1/14/2025, and Plaintiff's Praecipe Seeking Immediate Disqualification filed 1/15/2025 are DENIED. Plaintiff's 12/9/2024 Motion for Continuance of the Pretrial Conference is DENIED AS MOOT; this hearing is converted to a Status Hearing, and a Remote Pretrial Conference is set for 4/9/2025 at 2:30 pm. Plaintiff's 9/17/2024 Motion for Relief from the July 8 Order and for Leave to File Plaintiff's Amended Fourth Motion to Compel Supplemental Discovery is DENIED. Plaintiff's 9/6/2024 Motion for Leave of Court to File Plaintiff's Motion to Complete Discovery is DENIED IN PART as to Requests 4 and 6; once Plaintiff locates the email from Ms. Cerny regarding the placement of security, Plaintiff must file a praecipe with the actual email attached by 1/16/2025, at 5:00 pm, and upon receipt, the Court will amend its ruling regarding Request 6 as appropriate. Plaintiff's 9/6/2024 Motion for Leave of Court to File Plaintiff s Motion to Complete Discovery is GRANTED IN PART as to Requests 2, 3, and 5, and Defendant must file by 2/15/2025 the names of all persons who managed from 9/12/2021 to 12/17/2021, their last known addresses, reasons for separation, and who made that decision; Defendant must also resubmit the narrative response for Request 5 and have the employee sign and date it. Plaintiff's 11/16/2024 Opposed Motion for Leave of Court to File Plaintiff's Motion for Defendant to Identify and Complete its Praecipe Responses is GRANTED; Defendant is to identify which documents respond to which request by 2/15/2025. Plaintiff may not file a motion requesting the pretrial be continued until he receives the 02/15/25 discovery. Plaintiff is granted leave to file a motion related to his Praecipe of Disputed Requests. SPJ/DWT;
Parties Present: Primary Attorney Cannon, William III
Plaintiff Colvin, Deon D.
Held and Continued

01/15/2025
Notice to Court (Praecipe) Filed
Supplement to Plaintiff's Fourth Motion to Disqualify Judge Donald W. Tunnage
Docketed On: 01/15/2025
Filed By: Plaintiff Colvin, Deon D.

01/15/2025
Notice to Court (Praecipe) Filed
Plaintiff's Praecipe Requesting the Immediate Disqualification of Judge Donald W. Tunnage
Docketed On: 01/15/2025
Filed By: Plaintiff Colvin, Deon D.

01/16/2025
Notice to Court (Praecipe) Filed
Plaintiff;s Praecipe Of Emails Between Raven Cerny & Keisha Alfred
Docketed On: 01/16/2025
Filed By: Plaintiff Colvin, Deon D.

01/21/2025
Correspondence Filed
Notice of Additional Time Granted by Judge Tunnage to File Plaintiff's Praecipe of Email Between Raven Cerny & Kiesha Alfred
Docketed on: 01/21/2025
Filed by: Plaintiff Colvin, Deon D.

01/29/2025
Amended Order Entered on Docket (Judicial Officer: Tunnage, Donald Walker)
Amended Order Compelling Document Production issued and e-served to Defendant and mailed to Plaintiff on 01/29/25.
Signed on: 01/29/2025

01/29/2025 Notice

04/09/2025
Remote Pretrial Conference Hearing (2:30 PM) (Judicial Officer: Tunnage, Donald Walker)

Financial Information

APPENDIX 4

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

January 15, 2025

Mr. Deon D. Colvin
743 Fairmont Street, NW
#211
Washington, DC 20001

Re: Deon D. Colvin
v. Superior Court of the District of Columbia
Application No. 24A682

Dear Mr. Colvin:

The application for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case has been presented to The Chief Justice, who on January 15, 2025, extended the time to and including March 23, 2025.

This letter has been sent to those designated on the attached notification list.

Sincerely,

Scott S. Harris, Clerk

by

Sara Simmons
Case Analyst

APPENDIX 5

Rule 16. Pretrial Conferences; Pretrial Status Conferences; Scheduling; Management

(a) APPLICABILITY. Unless otherwise ordered by the judge to whom the case is assigned, the provisions of this rule apply to all civil actions and to both small claims and landlord and tenant actions certified to the Civil Actions Branch for jury trial.

(b) INITIAL SCHEDULING AND SETTLEMENT CONFERENCE.

(1) *In General.* In every case assigned to a specific calendar or a specific judge, the court must hold an initial scheduling and settlement conference as soon as practicable after the complaint is filed.

(2) *Praecipe in Lieu of Appearance.* Except in cases to which Rule 40-III applies, no attorney need appear in person for the scheduling conference if a praecipe conforming to the format of Civil Action Form 113 (Praecipe Requesting Scheduling Order) signed by all attorneys is filed no later than 7 calendar days prior to the scheduling conference date consenting to the entry by the court of a track I or track II scheduling order outside their presence.

(A) *Praecipe Requirements.* The praecipe must certify that:

(i) the case is at issue;

(ii) all parties are represented by counsel;

(iii) there are no pending motions; and

(iv) all counsel have discussed the provisions of Rule 16(b)(4)(B) and (C) and do not foresee any issue requiring court intervention.

(B) *Filing the Praecipe; Courtesy Copy.* The praecipe must be accompanied by an addressed envelope or mailing label for each attorney and a courtesy copy must be delivered to the assigned judge's chambers. Neither addressed envelopes nor mailing labels need be provided for documents filed under the court's electronic filing program.

(3) *Scheduling Order; In General.* At the conference, the judge will ascertain the status of the case, explore the possibilities for early resolution through settlement or alternative dispute resolution techniques, and determine a reasonable time frame for bringing the case to conclusion. After consulting with the attorneys for the parties and with any unrepresented parties, the judge will place the case on one of several alternative time tracks and will enter a scheduling conference order which will set dates for future events in the case.

(4) *Contents of the Order.* The scheduling order may:

(A) modify the extent of discovery;

(B) provide for discovery or preservation of electronically stored information;

(C) include any agreements the parties reach for asserting claims of privilege or of protection as trial-preparation material after information is produced, including agreements on the effects of disclosure reached under Rule 26(b)(5)(C);

(D) direct that before moving for an order relating to discovery, the movant must request a conference with the court;

(E) set dates for pretrial conferences and for trial; and

(F) include other appropriate matters.

(5) *Scheduling Order; Deadlines.* Where applicable, the order will specify dates for the following events:

(A) *Discovery Requests; Depositions.*

(i) No interrogatories, requests for admission, requests for production or inspection, or motions for physical or mental examinations may be served less than 30 days before the date set for the end of discovery.

(ii) Party depositions ad testificandum and nonparty depositions duces tecum or ad testificandum must be noticed not less than 5 days before the date scheduled for the deposition and no deposition may be noticed to take place after the date set for the conclusion of discovery.

(B) *Exchange Lists of Fact Witnesses.* On or before this date, each party must file and serve a listing, by name and address, of all fact witnesses known to that party, including experts who participated in, and will testify about, pertinent events. No witness may be called at trial, except for rebuttal or impeachment purposes, unless he or she was named on the list filed by one of the parties on or before this date or the calling party can establish that it did not learn of the witness until after this date.

(C) *Proponent's Rule 26(a)(2)(B) Report.* By this date, a report required by Rule 26(a)(2)(B) must be filed and served by any proponent of an issue who will offer an expert opinion on such an issue.

(D) *Opponent's Rule 26(a)(2)(B) Report.* By this date, a report required by Rule 26(a)(2)(B) must be filed and served by any opponent who will offer an expert opinion on such an issue.

(E) *Close of Discovery.* After this date, no deposition or other discovery may be had, nor motion relating to discovery filed, except by leave of court on a showing of good cause.

(F) *Filing Motions.* All motions must be filed by this date, except as provided in Rule 16(b)(5)(E) and (d). The order will also specify a date by which dispositive motions will be decided.

(G) *Alternative Dispute Resolution.* The order will set out a time period in which mediation or other alternative dispute resolution proceedings will be held.

(H) *Final Pretrial and Settlement Conference.* The order will specify a time period in which the final pretrial and settlement conference will be held.

(I) *Optional Deadlines.* The scheduling conference order may also set dates for the joinder of other parties and amendment of pleadings, the completion of certain discovery, the filing of particular motions and legal memoranda, and any other matters appropriate in the circumstances of the case.

(6) *Obligations of Parties.* All counsel and all parties must take the necessary steps to complete discovery and prepare for trial within the time limits established by the scheduling order.

(7) *Modification.*

(A) *By Leave of Court.* The scheduling order may not be modified except by leave of court on a showing of good cause. A party seeking a modification of the scheduling order must provide the court with a copy of the existing scheduling order and a detailed discovery plan, which lists the specific methods of discovery to be conducted, the persons or materials to be examined, and the date or dates within which all further discovery must be completed.

(B) *By Stipulation.* Stipulations between counsel will not be effective to change any deadlines in the order without court approval, provided, however, that any date in the scheduling order except for the date of court proceedings (e.g., status hearings, ex

parte proofs, ADR sessions, pretrials and trials) may be extended once for up to 14 days on the filing and delivery to the assigned judge of a praecipe showing that all parties who have appeared in the action consent to the extension. Any motion to further modify a date so extended must recite that the date in question was previously extended by consent and must specify the length of that extension.

(c) MEETING 5 WEEKS PRIOR TO PRETRIAL CONFERENCE.

(1) *Attendance*. Not less than 5 weeks prior to the pretrial conference, at least one of the attorneys who will conduct the trial for each of the parties, and any unrepresented parties, must meet in person. If such persons are unable to agree on a date, time, and place for the meeting, the parties must notify the judge by phone in advance that they will meet at 9:00 a.m. in the judge's courtroom or such other place to be designated by the judge on the day which is 5 weeks prior to the date of the pretrial conference.

(2) *Matters for Consideration*. The participants in the meeting must spend sufficient time together to discuss the case thoroughly and must make a good faith effort to reach agreement on the following matters:

(A) formulating and simplifying the issues, and eliminating frivolous claims or defenses;

(B) amending the pleadings if necessary or desirable;

(C) obtaining admissions and stipulations about facts and documents to avoid unnecessary proof, and ruling in advance on the admissibility of evidence;

(D) avoiding unnecessary proof and cumulative evidence;

(E) identifying witnesses and documents;

(F) referring matters to a magistrate judge or master;

(G) settling the case or using alternative dispute resolution procedures to resolve the dispute;

(H) determining the form and content of the pretrial order;

(I) disposing of pending motions;

(J) adopting special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems; and

(K) facilitating in other ways the just, speedy, and inexpensive disposition of the action.

(3) *Exhibits*.

(A) *Documentary Exhibits*. At this meeting, each party must provide to all other parties copies of all documentary exhibits which that party may offer at trial; affixed to each exhibit must be a numbered exhibit sticker and the exhibits must be identified, by exhibit number, on an index provided with the exhibits.

(B) *Non-Documentary Exhibits*. Each party also must make all non-documentary exhibits available for examination by other parties at or before this meeting.

(d) 4 WEEKS PRIOR TO PRETRIAL CONFERENCE. Four weeks prior to the pretrial conference, each party must file with the court, serve on all other parties, and deliver to the assigned judge in accordance with the provisions of Rule 5(d) any motion in limine, motion to bifurcate, or other motion respecting the conduct of the trial, which a party wishes to have the court consider.

(e) ONE WEEK PRIOR TO PRETRIAL CONFERENCE.

(1) *Joint Pretrial Statement.* One week prior to the pretrial conference, the parties must file with the court and deliver to the assigned judge in accordance with the provisions of Rule 5(d) a joint pretrial statement, which must include a certification of the date and place of the meeting held pursuant to Rule 16(c), must be in a form prescribed by the court, and must also include the following items:

(A) a list of any proposed voir dire questions;

(B) a list, by number, of those proposed instructions contained in the Standardized Civil Jury Instructions for the District of Columbia;

(C) the complete text of any proposed jury instruction not found in the Standardized Civil Jury Instructions for the District of Columbia;

(D) any proposed verdict form, including any special interrogatories to be answered by the jury; and

(E) any objections and suggestions for alternative language that a party may have to the voir dire questions, jury instructions, or verdict form submitted by any other party.

(2) *Objections to Exhibits.* Objections, if any, by a party to the exhibits submitted by any other party also must be made at this time as part of the joint pretrial statement. A party raising an objection to an exhibit of another party must attach to the statement of objection a copy of the exhibit to which the objection is made. The court will not consider any objection or alternative language that is filed beyond the time frames prescribed by this rule unless the party making the objection or suggestion can establish that the objection or suggestion could not, for reasons beyond that party's control, be timely filed.

(3) *Unlisted Witnesses or Exhibits.* Except for plaintiff's rebuttal case or for impeachment purposes, no party may offer at trial the testimony of any witness not listed in the pretrial statement of the parties, nor any exhibit not served as required by this rule, without leave of court.

(f) PRETRIAL AND SETTLEMENT CONFERENCE.

(1) *Attendance.* The lead counsel who will conduct the trial for each of the represented parties, and, unless excused by the judge for good cause, all parties must attend the pretrial and settlement conference.

(2) *Exhibits.* All counsel and unrepresented parties must bring to the conference their trial exhibits, copies of which were served on other parties pursuant to Rule 16(c)(3). If any party proposes to offer more than 15 exhibits at trial, that party's exhibits must be arranged as follows:

(A) *Nonjury Trials.* In nonjury trials, the original exhibits, with numbered exhibit stickers affixed, must be placed in a looseleaf, three-ring notebook with tabbed divider pages. At the front of the notebook must be an Exhibit Summary Form (copies of which are available in the clerk's office) describing each exhibit by number.

(B) *Jury Trials.* In jury trials, the notebook must contain copies of all the exhibits; the original exhibits, with stickers affixed, must be placed in a folder, in numerical order, along with the original Exhibit Summary Form.

(3) *Conference Details.* The conference will generally be held by the judge who will preside at trial and will not be recorded unless the judge orders otherwise. If settlement of the case cannot be achieved within a reasonable time, the judge will discuss with those attending the conference the pretrial filings of the parties as may be pertinent and will set a trial date for the case.

APPENDIX 6

No. _____

IN THE SUPREME COURT OF THE UNITED STATE

October Term 2025

In re: DEON D. COLVIN, Petitioner

****

APPLICATION & MOTION FOR EXTENSION OF TI
PETITION FOR WRIT OF CERTIORARI PURSU
RULE 13(5)

****

To the Honorable John Roberts, Chief Justice of the United States Supreme Court and Circuit Justice to the District of Columbia Circuit:

1. I, Petitioner, Deon D. Colvin, *pro se,* pursuant to Rule 13(5) of Rules of the Supreme Court, respectfully seek a sixty (60) day extension of time within which to file my petition for writ of *certiorari* in this Court for the judgment of *In Re: Deon D. Colvin*, District of Columbia Court of Appeals Case Number 24-OA-0016. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257. This application is submitted more than ten (10) days prior to the scheduled filing date for the Petition. The pertinent dates are:

a. October 24, 2024: Order denying Petitioner's petitions for rehearing and en banc rehearing filed. A copy of this opinion is attached hereto as Exhibit A.

b. October 15, 2024: Petitioner filed a petition for rehearing and rehearing *en banc* pursuant to Rules 27 and 35 of the Rules of the District of Columbia Court of Appeals.

c. September 17, 2024: Issuance of a written order denying Petitioner's Petition for Writ of Mandamus filed. A copy of the order is attached hereto as Exhibit B.

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d. January 12, 2025: Deadline for seeking extension of time within which to file a petition for writ of *certiorari* in the United States Supreme Court.

e. January 22, 2025: Expiration of time for filing a petition for writ of *certiorari* in the United States Supreme Court, unless extended.

2. This is a judicial qualification case pursuant to 28 U.S.C. § 455(a), where a Petition for Writ of Mandamus was filed with the D. C. Court of Appeals for a writ disqualifying Respondent Judge (Donald W. Tunnage), after Respondent Judge DENIED three motions for disqualification filed by Petitioner, filed pursuant to the above statute. 743 Fairmont Street NW LLC is also a Respondent in the case. **I am *pro se* in the case and will be filing an application to proceed *in forma pauperis***.

3. My petition for writ of mandamus comprises fourteen (14) complaints of the appearance of bias and includes 25 Appendices, totaling four hundred (400) pages. *See* Exhibit C at 2. I have no computer and I am limited to printing 20 pages per day from computers at the D.C. Public Library. The total number of pages I will need to print for the petition to this court will be: 10 copies for the Supreme Court, 2 copies for Respondents, and 1 copy for myself which is 13 copies x 400 pages = 5200 pages for my petition for writ of mandamus, plus the other required pages of the Petition For Writ of Certiorari. At a print limit of 20 pages per day for the 90 days allotted to file the Petition, I can only print 1800 pages. Thus, I need an extension of time to either (a) gather the resources to print the remaining pages or (b) find a way to present the contents of my Petition for Writ of Mandamus and arguments to the Court in the pages I can muster. This is a very important Petition that asks the Court to determine if the D.C. Court of Appeals has fair and acceptable standards for determining issuance of Writs for Mandamus Petitions, or if the standards are too inherently biased to be of utility. Thus, I respectfully request an extension of time of sixty (60) days to find a solution to the aforementioned problem and submit my petition.

4. For the foregoing reason, I pray that this Court grants an extension of sixty (60) days to and including **March 22, 2025**, within which to file my petition for writ of *certiorari*.

5. On January 3, 2025 Opposing Counsel, Respondent 743 Fairmont Street NW LLC, William P. Cannon III and Respondent Judge Tunnage, were contacted for their position on this application and motion at bcannon@offitkurman.com and JudgeTunnageChambers@dcsc.gov, respectively; no response was provided by either Party, thus Petitioner does not know if Opposing Counsel consents or objects to this application and motion.

6. This application and motion for extension of time is being made on the 10th day of January 2025.

Respectfully Submitted,

DEON D. COLVIN

Deon D. Colvin

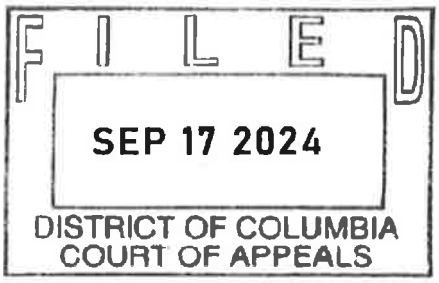
Petitioner, Applicant (*Pro Se*)
743 Fairmont Street, N.W. #211
Washington, D.C. 20001
T: 216-396-8512
E-mail: DeonColvin@aol.com

CERTIFICATE OF SERVICE

I, Deon D. Colvin, certify that I have this day served the foregoing **Application & Motion for Extension of Time to file Petition for Writ of Certiorari** by United States Postal Service, First Class Mail addressed to Respondent's Counsel William P. Cannon III, 7501

APPENDIX 7

District of Columbia
Court of Appeals



No. 24-OA-0016

IN RE DEON D. COLVIN **2019-CA-008113-B**

BEFORE: Easterly and Shanker, Associate Judges, and Thompson, Senior Judge.

ORDER

On consideration of petitioner's application for waiver of fees and costs, and his lodged petition for a writ of mandamus wherein he requests that the court direct Judge Tunnage to recuse himself from case 2019-CA-008113-B, it is

ORDERED that petitioner's application for waiver of fees and costs is granted and the Clerk shall file the lodged petition for a writ of mandamus nunc pro tunc to September 9, 2024. It is

FURTHER ORDERED that the petition for a writ of mandamus is denied. *See In re M.O.R.*, 851 A.2d 503, 509 (D.C. 2004) (explaining that a writ of mandamus "should only be issued in exceptional circumstances" and that a petitioner must show a "clear and indisputable" right to the relief sought) (internal quotation marks omitted); *see also Plummer v. United States*, 870 A.2d 539, 547 (D.C. 2005) ("Generally. . . legal rulings against appellants, of course, do not constitute grounds for recusal, for any prejudice must stem from an extrajudicial source. . . . Although a showing that a judge's alleged prejudice comes from an extrajudicial source may not be required when the circumstances are so extreme that a judge's bias appears to have become overpowering, [appellant] has not satisfied this most exacting standard." (citation, alterations, and internal quotation marks omitted)).

PER CURIAM

Copies e-served to:

Honorable Donald Tunnage

William P. Cannon, III, Esq.

APPENDIX 8

Rule 12-I. Motions Practice

(a) EFFORTS TO OBTAIN CONSENT; CONSENT MOTIONS.

(1) *In General.* Before filing any nondispositive motion, except motions filed pursuant to Rule 11, the moving party must make a good faith effort to discuss the anticipated motion with other parties in an effort to determine whether there is any opposition to the relief sought and, if there is, to narrow the areas of disagreement.

(2) *Rule 11 Motions.* For motions filed pursuant to Rule 11, the moving party must make a good faith effort to resolve or dispose of the issues in dispute before the motion is served pursuant to Rule 11(c)(2).

(3) *No Resolution or Consent.*

(A) *In General.* The court must consider the motion as a contested matter if the movant certifies in writing that:

(i) for a Rule 11 motion, resolution of the disputed issues is not possible; or

(ii) for a motion other than a Rule 11 motion, the movant made a good faith effort to discuss the motion as required by Rule 12-I(a)(1) and could not obtain consent.

(B) *Contents of Certification.* The certification required by Rule 12-I(a)(3)(A)(ii) must set out specific facts describing the good faith effort, including a statement of the date, time, and method of each communication made to another party and whether any response has been received.

(4) *Consent Obtained.* If consent is obtained, and if the relief does not require court approval, the party seeking the relief may memorialize the other parties' consent in a letter to the parties (which should not be filed) or in a praecipe filed and served as provided in Rule 5. If the relief sought is consented to but requires court approval, the moving party must file, serve, and provide to the assigned judge a courtesy copy of a motion which includes the word "consent" in its title and states that all affected parties have consented to the relief sought. No response to a consent motion is required.

(b) [Deleted].

(c) [Deleted].

(d) MOTIONS. If a motion is consented to by all affected parties, that fact must be indicated in the title of the motion, e.g., "Consent Motion to Extend Time for Filing Plaintiff's Witness List." The caption must contain the parties' next court date (e.g. case mediation, pretrial conference, or trial) if one has been set.

(e) OPPOSITIONS. Within 14 days after service of the motion or at such other time as the court may direct, an opposing party must file and serve an opposition. If an opposition is not filed within the prescribed time, the court may treat the motion as conceded.

(f) PROPOSED ORDER. Each motion and opposition must be accompanied by a proposed order for the court's signature. The proposed order must list all persons to whom copies of the judge's order must be sent, including the addresses of those who cannot be served electronically. The proposed order also must list existing dates from the scheduling order and must indicate which dates, if any, would be affected by the motion or opposition.

(g) REPLY. Within 7 calendar days after service of an opposition, the moving party may file and serve a reply.

(h) HEARING: WHEN ALLOWED. A party may specifically request an oral hearing by endorsing at the bottom of the party's motion or opposition, above the party's signature,

"Oral Hearing Requested"; but the court in its discretion may decide the motion without a hearing. If the judge assigned to the case decides to hold a hearing on the motion, that judge must give to all parties appropriate notice of the hearing and may specify the matters to be addressed at the hearing and the amount of time afforded to each party. If a pending motion is resolved by counsel, the movant must immediately notify the court by telephone.
(i) HEARING: FAILURE OF ONE PARTY TO APPEAR. If, at the time the case is called for hearing on a petition or motion, the moving party fails to appear, the petition or motion may be treated as submitted or waived, or may be continued. If the opposing party fails to appear, it may be treated as conceded. The court in its discretion may hear argument on behalf of the party appearing.
(j) MOTION TO VACATE DEFAULT. A motion to vacate an entry of default or a judgment by default, or both, must comply with the requirements of Rule 55(c).
(k) MOTION FOR SUMMARY JUDGMENT. A motion for summary judgment must comply with the requirements of Rule 56.
(*l*) POST-RULING PROPOSED ORDER. Unless otherwise directed by the court, counsel prevailing at oral argument must file and serve, within 7 days after the court rules on any motion, a proposed order reflecting the court's ruling.
(m) [Deleted].
(n) TIME LIMIT FOR MOTIONS. All motions, other than motions specified in Rule 16(d) and posttrial motions, must be filed by the deadline set forth in the scheduling order issued pursuant to Rule 16(b). For good cause, the court may extend the period for filing such motions.

COMMENT TO 2022 AMENDMENTS

The requirement in section (a) to seek consent to the relief sought in a motion was limited to nondispositive motions, and parties must attempt to narrow any area of disagreement. This requirement does not apply to a motion to dismiss, a motion for summary judgment, a motion for judgment on the pleadings, or any other motion seeking to dispose of a claim or defense.

The option in section (d) to file separate points and authorities was eliminated, and consistent with Rule 7(b)(1)(B), the motion itself must state with particularity the grounds for seeking the order. Motions practice under the amended rule includes motions, oppositions, and replies.

Section (g) was amended to permit replies in support of any motion, not only the four types of motions previously specified in section (g).

COMMENT TO THE 2021 AMENDMENTS

Section (b) concerning judge in chambers and section (c) concerning the judge on emergency assignment were deleted. The court will make publicly available information concerning the matters that must be presented to the judge in chambers, and it will continue to maintain a roster of judges to handle matters requiring immediate judicial attention at a time outside regular business hours. It is not necessary to include these provisions in the civil rules, and deleting these provisions from Rule 12-I gives the Chief