

STATE OF WISCONSIN : CIRCUIT COURT : RACINE COUNTY
2021CF001586

STATE OF WISCONSIN,
Plaintiff,

Case No. 2021CF001586

Vs.

JOSHUA HANSON,
Defendant.

**MOTION TO RECONSIDER JUDICIAL DENIAL OF DEFENSE REQUEST FOR
RECUSAL**

To: Hon. Eugene A. Gasiorkiewicz, Judge
ADA John M. Wagner

NOW COMES the defendant, Joshua Hanson, by his attorney Christopher S. Carson of CARSON LAW OFFICE, and hereby moves this Honorable Court to recuse itself from this case, and in particular, to reconsider its decision to deny Counsel's oral motion, made at the last hearing on this case, for recusal.

To recap, at the last hearing of this case, on September 9th, 2022, the Court was running through its usual list of hearings that morning. In Racine, perhaps uniquely among other county criminal dockets in the State of Wisconsin, a kind of anarchic, informal method of getting defendant's cases called reigns. Basically, *neither the clerk nor the judge* direct lawyers to come forward with their clients in any kind of order or even prompting. The lawyers themselves are tasked with blurting out their client's case, with the promise that it is "ready," and the judge simply motions the lawyer to come forward with his client.

Carson's client had presented proof that he was even then suffering from a florid, fulminant COVID-19 infection which involved coughing. Carson believed that with his client waiting in his own car, perhaps the clerk herself ought to know this, and thus call the case at the Court's convenience, and not wait for the client to stumble into the courtroom and spray viral sputum particulates all around the room.

When the case was finally called, the Judge, Hon. Eugene A. Gasiorkiewicz, took the opportunity, given that the courtroom was filled with lawyers, defendants, members of the public and court staff, to sternly upbraid counsel for a) not buttoning up his jacket "when approaching the bench," and b) not buttoning up his shirt all the way to a closing of the top button. [Carson had not approached the bench, merely the Clerk].

In more than 30 years of practicing law in the State, Atty. Carson had never seen courtroom sartorial expectations judicially sacralized to such an extent, and he certainly was reduced to slack-jawed stupefaction at the manner in which the critique was levied.

Let us assume a full-tilt ethical catastrophe in Carson's not "buttoning up the jacket" upon "approaching the clerk" while still in the jury box, and in his failure to affix a closed button to the very top of his shirt by the neck. Let us assume that these were somehow violations of the attorney's code of ethics. Atty. Carson *still* could not comply with the Court's novel interpretation of the lawyer's dress code—his shirt's collar was too small for buttoning at the top, given the melancholy thickness of Carson's neck.

Whereupon Atty. Carson attempted to affix his top shirt button to its loop on the other side, and only succeeded in temporarily depriving himself of oxygen. The Court was nonplussed, and this time sternly threatened counsel that if there is one more time in which Carson shows up in the courtroom with a shirt not "properly fitting" his body shape, the Court will "find you in contempt!"

The Court then, we can only assume, was concerned that perhaps Carson failed to understand with sufficient clarity its remarkable threat, although Carson gave no indication that he could have possibly failed to comprehend such simple English formulations. So the Court then yelled, "Do you understand!?"

It is important for future forums to grasp what Carson was not displaying. He had on a coat, tie, long sleeve shirt, dress pants, a belt, socks and dress shoes. But although his top shirt button could not close, his tie was rammed all the way up, as far as it could go, to his neck. Fortunately for the assembled members of the public, not one single spot, however small, of Carson's skin was in the least bit visible—ever.

This was not a case in which Carson simply loosened his tie halfway down his shirt, in a rakish descent from formality, baring for all a Russian-style amplitude of matted chest hair and large gold chain, for all to see and never forget. No, this was merely a case of Carson's shirt collar being, of late, too small for complete buttoning at the very top.

After the business of the case was completed, Carson moved the Court orally for a blanket recusal from this case, and every other case in the future, given the novel level of inchoate antipathy that the Court's threats, angry tone of voice, and uniquely triggering subject matter seemed to represent and embody.

Upon reflection, Carson's oral motion was undeveloped. Perhaps this was why the Court denied it. Now we develop it in writing, and ask again for a blanket recusal from all cases of undersigned counsel, now and in the future, world without end.

ARGUMENT

This motion is brought pursuant to the following section of the Code of Judicial Conduct, which imposes an absolute requirement for recusal when this section is triggered:

SCR 60.04:

A judge shall perform the duties of judicial office impartially and diligently.

(4) Except as provided in sub. (6) for waiver, a judge shall recuse himself or herself in a proceeding when the facts and circumstances the judge knows or reasonably should know establish one of the following or when reasonable, well-informed persons knowledgeable about judicial ethics standards and the justice system and aware of the facts and circumstances the judge knows or reasonably should know would reasonably question the judge's ability to be impartial....

(a) The judge has a personal bias or prejudice concerning a party **or a party's lawyer....**(emphasis added)

(e) A judge shall perform judicial duties without bias or prejudice. A judge may not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice....

So impartiality must reign supreme. Could someone "reasonably question" this Court's "ability to be impartial?"

To answer this question, we turn to sub. (d):

(d) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, **lawyers and others** with whom the judge deals in an official capacity and shall require similar conduct of lawyers, staff, court officials and others subject to the judge's direction and control.

During trials and hearings, a judge shall act so that the judge's **attitude, manner or tone toward counsel** or witnesses does not prevent the proper presentation of the cause or the ascertainment of the truth....

But most of all, a "judge must perform judicial duties impartially and fairly. A judge who manifests bias on any basis in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. **Facial expression and body language, in addition to oral communication, can give to parties or lawyers in the proceedings, jurors, the media and others an appearance of judicial bias. A judge must be alert to avoid behavior that may be perceived as prejudicial.** (emphasis added).

Mr. Hanson is entitled to be judged by an official who is neutral and detached and who gives no reason for anyone in the world to harbor the barest hint of a suspicion

that this judge becomes emotionally triggered at the mere sight of Attorney Christopher Carson, to the novel point where the judge threatens to “find in contempt” Carson for missing a button on his shirt next to his neck.

The right of a party to have a judge without bias is based on the assurance of due process and a fair trial under the Constitution. Judicial bias against counsel for a litigant is not necessarily grounds for disqualification; **hostility against an attorney, however, may be of such a degree as to adversely affect the client’s interest and require the judge’s disqualification.** The right to a fair trial includes the right to be tried by an impartial and unbiased judge. *State v. Walberg*, 109 Wis. 2d 96, 105, 325 N.W.2d 687 (1982). Yelling at lawyers for shirt collars missing a button at the top (though with no skin showing in any event) is not only novel in Carson’s 30 year practice of law, but its very paucity of historical precedent certainly seems “of such degree as to adversely affect the client’s interest and require the judge’s disqualification.”

So as to avoid non-purgeable hard jail time being levied upon him in the future, Carson renews his motion for lifetime recusal from all his cases ever to be brought before this Court. The basic reason, again, is that when a Court ever takes the step of finding a lawyer in contempt of court and possibly handing him over to a jailer, with no purge permitted, it is hard to imagine a judge giving the lawyer a fair hearing on future cases.

Consider this thought experiment: How a judge could ever conceive that a lawyer, being so morally compromised and sunken in unprofessional squalor as to merit, possibly, the supreme penalty available in Wisconsin, incarceration, could nevertheless be worthy of a fair hearing beggars description. No judge ever pays any legal attention to the personhood of rats and roaches--- but that is what, effectively, a lawyer under such a benighted cloud would be, to that judge.

For these reasons, recusal is respectfully requested in reconsideration.

Dated this 13th day of September, 2022

Christopher S. Carson
Attorney for Joshua Hanson
State Bar I.D. No. 1018184

Carson Law Office
15350 West National Avenue
Suite 101
New Berlin, WI 53151
262-860-8932
carsonlawoffice@gmail.com