

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2003-000539-001 DT

12/04/2003

HON. MARGARET H. DOWNIE

CLERK OF THE COURT

L. Rasmussen
Deputy

FILED: 12/05/2003

SCOTT M MCNAIR

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PHOENIX AZ 85016

v.

MARICOPA COUNTY DEPARTMENT OF
TRANSPORTATION (001)
STATE OF ARIZONA PERSONNEL BOARD
(001)
KENNETH MEDLIN (001)
TERRY PETERSON (001)
JENNIPHER RAMSEY (001)

DANIEL R BRENDEN
CRAIG L MOUSEL
MARY COLLINS CRONIN

OFFICE OF ADMINISTRATIVE
HEARINGS

MINUTE ENTRY

The court has received and reviewed plaintiff's notice of change of judge for cause filed against the Honorable Michael D. Jones.

Rule 42(0(2), Ariz.R.Civ.P. and A.R.S. § 12-409 provide that, if a party alleges grounds for removal of a judge based upon cause, the matter shall be heard by another judge and the issue decided by a preponderance of the evidence. However, before setting an evidentiary hearing, the court must first determine whether, on its face, the affidavit alleges facts which, if true, warrant disqualification. In *Smith v. Smith*, 115 Ariz. 299, 564 P.2d 1266 (App. 1977), the Arizona Court of Appeals held:

The bias and prejudice necessary to disqualify a judge must arise from an extrajudicial source and not from what the judge has done in his participation in the case.

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The pending notice fails to state valid grounds upon which to remove Judge Jones for cause. The allegations regarding bias and prejudice involve the judge's participation in the case. There is no allegation of bias and prejudice from an extrajudicial source.

IT IS ORDERED denying the notice of change of judge for cause.

IT IS FURTHER ORDERED remanding this matter to Judge Jones for all further proceedings.

cc: Judge Jones