

Court of Appeals, State of Michigan

ORDER

Re: **People of MI v Reginald Lamarr Davis**

Docket No. **354927**

LC No. **20-002814-01-FC**

Pursuant to MCR 2.003(D)(3)(a)(i), the motion to disqualify Judges Thomas C. Cameron, Karen M. Fort Hood, and Michael J. Riordan has been referred to the Chief Judge for decision de novo. In conducting this review, this Court presumes judges to be impartial, *In re MKK*, 286 Mich App 546, 566; 781 NW2d 132 (2009), and defendant has not provided any evidence of bias or prejudice on the part of Judges Cameron, Fort Hood or Riordan, as outlined in MCR 2.003(C). This holds true for at least two reasons. First, the assertion that the assistant prosecutor engaged in an *ex parte* communication with this Court does not implicate the rules for recusal. For one, there is no suggestion that the alleged *ex parte* communication was with any judge, which is what the judicial canons focus upon. See Canon 3(A)(4). Rather, it is alleged that the communication was with a staff member of the Clerk's office, and appears to have been for the purpose of providing the Court notice of the potential for an imminent emergency request for a stay, something the canon specifically allows for. See Canon 3(A)(4)(a). Here, the Court encourages appellate counsel to contact the Court Clerk about any potential incoming emergencies so that the panel can be advised. And, to ensure the communication is not kept private, the Clerk routinely enters into the docket a brief description of the contact. That was done in this case.

Second, as for the panel's decision to issue an amended order granting leave to appeal, which the panel issued on its own motion to stay trial court proceedings pending the decision on appeal, "the remedy for mistakes made by trial judges lies in the appellate process, not in motions to disqualify." *Cain v Dep't of Corrections*, 451 Mich 470, 516-517; 548 NW2d 210 (1996). See also *Armstrong v Ypsilanti Charter Township*, 248 Mich App 573, 597; 640 NW2d 321 (2001) ("repeated rulings against a litigant, even if erroneous, are not grounds for disqualification.").

For these reasons, defendant's motion to disqualify Judges Thomas C. Cameron, Karen M. Fort Hood, and Michael J. Riordan is DENIED.



Chief Judge



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

November 12, 2020

Date



Chief Clerk