Stevenson v. Stevenson

Judicial-disqualification appeal (2025)

Minnesota Court of Appeals

A25-0186 | July 28, 2025

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STATE OF MINNESOTA

IN COURT OF APPEALS

A25-0186

Craig Stevenson, et al.,

Appellants,

vs.

Sean Stevenson, et al.,

Respondents.

Filed July 28, 2025

Affirmed; motion denied

Frisch, Chief Judge

Otter Tail County District Court

File No. 56-CV-20-2928

Matthew J. Schaap, Cassandra C. Wolfgram, Dougherty, Molenda, Solfest, Hills & Bauer P.A., Apple Valley, Minnesota (for appellants)

Kirsten J. Hansen, Stitch, Angell, Kreider & Unke, P.A., Minneapolis, Minnesota (for respondents Sean Stevenson and Renee Stevenson)

Ross N. Tentinger, Joseph C. Tourand, Tentinger Law Firm, P.A., Apple Valley, Minnesota (for respondents Sean Stevenson, Renee Stevenson, Lisa Stevenson-Allen, and Ashley Anderson)

Considered and decided by Slieter, Presiding Judge; Frisch, Chief Judge; and Smith, Tracy M., Judge.

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NONPRECEDENTIAL OPINION

FRISCH, Chief Judge

Appellants challenge the district court's denial of their motion to vacate several orders and a judgment, arguing that a connection between one of respondents' attorneys and a law clerk who allegedly worked on those orders created an appearance of partiality thereby disqualifying the district court judge. We affirm because we discern no appearance of impropriety.

FACTS

This is the fifth time this matter has come before us. *See Stevenson v. Stevenson (In re Stevenson)*, No. A23-0077, 2023 WL 2662579 (Minn. App. Feb. 21, 2023) (order) (granting in part and denying in part a petition for an extraordinary writ related to discovery); *Stevenson v. Stevenson*, No. A23-1209, 2024 WL 1506989 (Minn. App. Apr. 8, 2024) (affirming summary-judgment dismissal of claims), *rev. denied* (Minn. July 23, 2024); *Stevenson v. Stevenson (In re Stevenson)*, No. A24-0697, 2024 WL 2592854 (Minn. App. May 21, 2024) (order) (denying writs of prohibition and mandamus as moot); *Stevenson v. Stevenson*, No. A24-1041, 2025 WL 365618 (Minn. App. Feb. 3, 2025) (affirming the district court's costs-and-disbursements judgment). The matter originated in 2020, when appellants Craig and Marie Stevenson brought claims of defamation per se, intentional infliction of emotional distress, and civil conspiracy against respondents Sean Source PDF page 3 Stevenson, Renee Stevenson, Lisa Stevenson-Allen, and Ashley Anderson.[1] In June 2023, the district court granted summary judgment in respondents' favor, dismissing all of appellants' claims.

Approximately one year later, appellants sent an informal letter to the district court stating that they intended to bring a motion "for a stay of enforcement of the judgment" and requesting that Judge Miller "immediately and voluntary" recuse from the matter. Appellants asserted that the judge was disqualified because they had discovered that a district court clerk involved in the case—Clerk Morrison—had previously worked as a law clerk for Judge Hansen, who is the father of one of respondents' counsel—Attorney Hansen.

Appellants then moved for disqualification of the judge and requested that the district court vacate certain orders and the judgment. In support of this motion, appellants attached affidavits asserting, in part, that they had discovered that Clerk Morrison, "whose name is listed as the document author for many of [the district court's] orders in our case, was previously the law clerk for Judge Mark F. Hansen, Attorney Kirsten Hansen's father." The affidavit lists orders in which metadata purportedly identifies Clerk Morrison as a document "author." The affidavits also contain allegations that the district court, Attorney Hansen, and Clerk Morrison "failed to disclose" a relationship between the clerk, Judge Hansen, and Attorney Hansen.

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Judge Miller held a hearing on appellants' disqualification motion during which Attorney Hansen affirmatively represented that she had never met or did not remember meeting Clerk Morrison. After argument, Judge Miller stated:

> [I]n the late summer of '22, . . . I did request [Clerk Morrison's] assistance because it was not an easy time to get a law clerk. So that is when I did request assistance. And just for the record, Mr. Morrison started with Judge Mark Hansen in November of 2013 and became Judge Sharon Benson's law clerk in September of 2016. Which I will note, is more than four years prior to the filing of the complaint in this matter, and it would have been six years after the filing of the complaint before Mr. Morrison had any other participation in this matter.

The district court denied appellants' motion. This appeal follows.

DECISION

Appellants argue that the judge was disqualified because the connection between Clerk Morrison and Attorney Hansen creates an appearance of impropriety. We disagree.

"No judge shall sit in any case if disqualified under the Code of Judicial Conduct." Minn. R. Civ. P. 63.02. Minnesota Code of Judicial Conduct Rule 2.11(A) requires that "[a] judge shall disqualify [themselves] in any proceeding in which the judge's impartiality might reasonably be questioned." Disqualification under this rule is required "not only when there is in fact impropriety, but also when there is an appearance of impropriety." *Roatch v. Puera*, 534 N.W.2d 560, 563 (Minn. App. 1995).

As a threshold matter, the parties dispute the applicable standard of review for a denial of a motion to disqualify. Appellants, citing *State v. Jacobs (In re Jacobs)*, assert that our review is de novo. 802 N.W.2d 748, 750 (Minn. 2011) ("Whether a judge is disqualified from presiding over a case is a question of law, which we review de novo."). Source PDF page 5 Respondents, citing *Hooper v. State*, contend that our review is for an abuse of discretion. 680 N.W.2d 89, 93 (Minn. 2004) ("A motion to remove for cause is committed to the discretion of the trial court and this court will reverse only for an abuse of that discretion."). We need not resolve the parties' dispute over the standard of review because even under the more onerous de novo standard urged by appellants, they have failed to demonstrate error. *See Waters v. Fiebelkorn*, 13 N.W.2d 461, 464-65 (Minn. 1944) (noting that appellants bear "the burden of showing error" and such "error is never presumed").

Appellants contend that the district court erred in denying their motion to disqualify and vacate because the connection between Clerk Morrison and Attorney Hansen gave rise to the appearance of impropriety. Appellants concede that this is not a case of actual bias; rather, they allege that the connection they identify creates an appearance of partiality. Respondents do not contest that a clerk's relationships and conflicts may be imputed to a judge as their employer but instead argue that the connection identified here does not give rise to an appearance of impropriety.[2]

"The question of disqualification focuses on whether an objective assessment of the judge's conduct produces a reasonable question about impartiality, not on the judge's subjective perception of his or her ability to act fairly." *Roatch*, 534 N.W.2d at 563. We Source PDF page 6 agree with the district court that "an objective examination into the circumstances surrounding the removal request" does not create a reasonable question about Clerk Morrison's impartiality. *Powell v. Anderson*, 660 N.W.2d 107, 116 (Minn. 2003) (quotation omitted). The circumstances that appellants assert as giving rise to a reasonable question of impartiality are: (1) Clerk Morrison "worked as a career law clerk for judges in Otter Tail County and specifically clerked for Judge Hansen from 2013 through January 27, 2017 (at least)"; (2) Judge Hansen continued presiding in the district court on senior status and this case was brought less than a year after he last served as a senior judge; (3) Clerk Morrison participated in this matter and is identified in document metadata as an "author" on twelve orders; and (4) Attorney Hansen represented respondents.[3]

A reasonable examiner would not question Clerk Morrison's impartiality given these circumstances. Missing among these circumstances is any evidence of a connection between Clerk

Morrison and Attorney Hansen. Appellants instead assume and ask us to infer the existence of a relationship between Clerk Morrison and Attorney Hansen because Clerk Morrison had clerked for Judge Hansen in the past and Judge Hansen is Attorney Source PDF page 7 Hansen's father. But the record does not support such an inference. To the contrary, the record reflects that Attorney Hansen represented to the district court that she either had never met Clerk Morrison or had met him but did not remember him. A connection of this nature does not create a conflict of interest, and none of the authorities on which appellants rely support disqualification based on such an attenuated connection.[4] *See Adair v. State, Dep't of Educ.*, 709 N.W.2d 567, 575-76 (Mich. 2006) (collecting cases in which a judge was not required to disqualify based on familial affiliations with law firms representing one of the parties). And we reject the proposition that a judge must disqualify themselves based on conclusory and speculative assertions that a conflict may exist. *See Davis v. Comm'r of Internal Revenue*, 734 F.2d 1302, 1303 (8th Cir. 1984) ("Affidavits based on conclusions, opinions, and rumors are an insufficient basis for recusal."); *N. Am. Co. for Life & Health Ins. v. Hoh*, 334 F. App'x 586, 589 (4th Cir. 2009) (concluding that there was no reasonable basis to question a judge's impartiality because "a judge need not recuse herself due to unsupported highly tenuous speculation" (quotation omitted)); *Delgado- O'Neil v. City of Minneapolis*, 745 F. Supp. 2d 894, 915 (D. Minn. 2010) (noting that Source PDF page 8 speculation regarding a judge's bias without more "is not grounds to recuse, nor should it be used to conduct a fishing expedition"), *aff'd*, 435 F. App'x 582 (8th Cir. 2011).

Also missing from the record is any evidence of Clerk Morrison's substantive contributions to or influence in the orders at issue. Again, appellants assume that the decisions reached in this matter were influenced by Clerk Morrison because he is identified as an "author" in document metadata. But this assumption is unfounded because the record is devoid of evidence regarding Clerk Morrison's influence on the substantive outcome of any decision by the district court. Without such evidence, we decline to conclude that the district court was influenced in its decision-making and discern no error in the district court's rejection of this argument.

Finally, we note that this matter was venued in a small community with only three judges. Familiarity and connections within such communities are not uncommon and do not necessarily give rise to a conflict of interest or an appearance of partiality. *See Roberson v. Gerakaris*, 119 A.3d 739, 743 (Me. 2015) (noting that it is an "unavoidable fact" in small communities that "a judge, or member of his or her family, may know of a party or someone related to a party or witness, or may even have done business with somebody whose name may come up in a case," and concluding that a court does not abuse its discretion by denying a motion—particularly a "tenuous" one—"once it determine[s] it [can] decide the matter impartially" (quotations omitted)). And we note that at the inception of this matter, appellants opposed the motion for a change in venue, even after Attorney Hansen alerted the district court that she was Judge Hansen's daughter.

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An objective examination of the circumstances of Clerk Morrison's relationship with Judge Hansen does not reasonably give rise to the appearance of impropriety. *Roatch*, 534 N.W.2d at 563. Nor do appellants overcome the presumption that judges are "able to approach every aspect of each case with a neutral and objective disposition." *Jacobs*, 802 N.W.2d at 754 (quotation omitted) (citing *Liteky v. United States*, 510 U.S. 540, 561-62 (1994) (Kennedy, J., concurring)). We see no conflict of interest requiring disqualification.

Affirmed; motion denied.[5]

Court's footnotes

1 The facts underlying the claims involve complex intrafamilial interactions and are generally not relevant to the issues currently on appeal. The underlying facts are set forth in *Stevenson*, 2024 WL 1506989, at *1-5.

2 While Minnesota courts have not addressed whether a clerk's conflicts may be imputed to a judge as their employer for purposes of disqualification, the Minnesota Code of Judicial Conduct provides that judges "shall require" their staff, including their clerks, "to act in a manner consistent with the judge's obligations." Minn. Code Jud. Conduct Rule 2.12(A); *accord Mathis v. Huff & Puff Trucking, Inc.*, 787 F.3d 1297, 1311 (10th Cir. 2015) ("If a law clerk continues to work on [a] case in which [their] impartiality might reasonably be questioned . . . the clerk's actual or potential conflict may be imputed to the judge." (citing *Hall v. Small Bus. Admin.*, 695 F.2d 175, 180 (5th Cir. 1983))).

3 Appellants contend that the district court erroneously relied on its own investigation and resulting findings of fact related to Clerk Morrison's employment with Judge Hansen. As a threshold matter, we note that the district court expressly informed the parties of the information that it assembled to determine the existence of its own conflict, and appellants did not object or otherwise argue to the district court that it improperly investigated this matter. As a result, this issue was not preserved for appeal and is forfeited. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). Even so, we emphasize the unique nature of a motion to disqualify, where a judge must necessarily consider information about their own conflict or a conflict within their chambers. And finally, appellants do not meaningfully challenge the substantive facts set forth by the district court and do not dispute that Judge Hansen stopped hearing cases before this matter was filed, nor do the facts as alleged by appellants alter our analysis.

4 *Cf. Parker v. Connors Steel Co.*, 855 F.2d 1510, 1524 (11th Cir. 1988) (assessing a conflict when the clerk's father was a partner at a firm representing a party and the father had clerked for the judge in question); *Barksdale v. Emerick*, 853 F.2d 1359, 1361-62 (6th Cir. 1988) (remanding for a more complete waiver because the clerk's father was a party even though the district court screened the clerk from the matter); *United States ex rel. Weinberger v. Equifax, Inc.*, 557 F.2d 456, 463-64 (5th Cir. 1977) (noting that "actual participation" by the judge's son whose law firm participated in the proceeding would raise an issue of disqualification, but concluding that the judge did not abuse his discretion in declining to disqualify himself as the son did not participate and was not a partner in the firm).

5 Appellants argue that we should strike respondents' brief because it contains uncited factual assertions and unpreserved arguments, improperly relies on matters not considered by the district court, and disregards the rules of appellate procedure. *See* Minn. R. Civ. App. P. 110.01 ("The documents filed in the trial court, the exhibits, and the transcript of the proceedings, if any, shall constitute the record on appeal in all cases."); *NY Props., LLC v. Schuette*, 977 N.W.2d 862, 866 (Minn. App. 2022) (declining to consider documents outside the record on appeal). Regarding uncited factual assertions, we conclude that these assertions are either argument based on the district court's conclusions or are irrelevant to the outcome of this appeal. And we do not consider forfeited arguments. *See Thiele*, 425 N.W.2d at 582. As such, we deny the motion to strike as moot.