

IN THE SUPREME COURT OF FLORIDA

HONORABLE GERALDINE F. THOMPSON,
in her Official Capacity as a
Representative for District 44
in the Florida House of
Representatives, and as an
Individual,

CASE NO. SC20-985

Petitioner,

vs.

HONORABLE RON DESANTIS, in his
Official Capacity of Governor
of Florida, and DANIEL E. NORDBY,
in his Official Capacity as Chair
of the Florida Supreme Court
Nominating Commission,

Respondents.

MOTION TO DISQUALIFY JUSTICE JOHN COURIEL

The Petitioner, the HONORABLE GERALDINE F. THOMPSON, through her undersigned attorneys, and pursuant to Canon 3E of the Florida Code of Judicial Conduct, moves this Court for an Order disqualifying the Honorable John D. Couriel, Florida Supreme Court Justice, from presiding over this case. In support, the Petitioner asserts the following:

1. On July 13, 2020, the Petitioner filed an Emergency Petition for Writ of Quo Warranto and Writ of Mandamus in this Court.

2. In that petition, the Petitioner challenged the authority of the Florida Supreme Court Judicial Nominating Commission ("the JNC") to nominate Judge Renatha Francis as a candidate for the Florida Supreme Court and the authority of Governor DeSantis to appoint Judge Francis to the Florida Supreme Court.

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3. More specifically, the Petitioner argued that the JNC exceeded the limits of its authority by certifying a list of nominees to Governor DeSantis that included a nominee who does not meet the constitutional requirements to hold the office of Supreme Court Justice. The list in question included now Justice John Couriel.

4. The Petitioner also argued that Governor DeSantis violated Article V, Section 11(c) of the Florida Constitution by failing to fill the two vacancies on the Supreme Court within 60 days of the JNC certifying its list of nominees.

5. As a result, the Petition for Writ of Quo Warranto and Writ of Mandamus that is currently pending before this Court challenges the legality of the process which resulted in Justice Couriel being appointed to the Florida Supreme Court.

6. Under these circumstances, disqualification of Justice Couriel from considering this case is required.

7. Pursuant to Canon 3E(1) of the Florida Code of Judicial Conduct, a motion to disqualify an appellate judge is legally sufficient and requires disqualification if the alleged facts would place a reasonably prudent person in fear of not receiving a fair and impartial hearing. See *In re Frank*, 753 So.2d 1228, 1238 (Fla. 2000); *In re Estate of Carlton*, 378 So.2d 1212, 1219 (Fla. 1979) (Overton, J.) (Denial of Request for Recusal); *Adams v. Smith*, 884 So.2d 287, 289 (Fla. 2d DCA 2004).

8. Based on the aforementioned facts, the Petitioner has an objectively reasonable fear that Justice Couriel cannot fairly and

impartially render a decision in this case.

9. However, even if an appellate judge determines that a motion for disqualification is not legally sufficient, a judge may still voluntarily recuse if he or she believes that such recusal would be in the best interests of the administration of justice. *Carlton*, 378 So.2d at 1220 (Overton, J., Denial of Request for Recusal).

9. In this case, Justice Couriel was appointed to the Florida Supreme Court through the same process which is being challenged in the petition currently pending before this Court. The appearance of impropriety that would result from him participating in this case is not in the best interests of the administration of justice.

WHEREFORE, the Petitioner, the HONORABLE GERALDINE F. THOMPSON, respectfully requests that this Honorable Court enter an Order disqualifying the Honorable John D. Couriel from presiding over this case.

Under penalties of perjury, I swear that I have read the foregoing motion and that the facts and assertions stated therein are true and correct.

July 21, 2020
DATE

Geraldine F. Thompson
THE HONORABLE GERALDINE F. THOMPSON

I HEREBY CERTIFY that this motion and the Petitioner's statements are made in good faith.

William R. Ponall
WILLIAM R. PONALL
Florida Bar No. 421634

Lisabeth J. Fryer
LISABETH J. FRYER
Florida Bar No. 89035

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this motion has been furnished by e-service to Joseph W. Jacquot, General Counsel, Executive Office of the Governor, joe.jacquot@eog.myflorida.com, counsel for Respondent Ron DeSantis, and to Respondent Daniel Nordby, in his capacity as Chair of Respondent Florida Supreme Court Judicial Nominating Commission, Shutts & Bowen, 215 South Monroe Street, Suite 804, Tallahassee, Florida 32301, dnordby@shutts.com on this 21st day of July, 2020.

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