

IN THE CHANCERY COURT OF LEFLORE COUNTY, MISSISSIPPI

**LEFLORE COUNTY BOARD OF
SUPERVISORS**

PETITIONER

VS.

CAUSE NO.: 23-CV-00090-WJP

**MARCUS BANKS, IN HIS CAPACITY AS
COMMISSIONER OF GREENWOOD
LEFLORE HOSPITAL BOARD OF
COMMISSIONERS AND CITY OF
GREENWOOD**

RESPONDENTS

RESPONDENTS' MOTION TO RECUSE

Pursuant to Miss. R. Civ. P. 16A, Rule 1.11 of the Uniform Chancery Court Rules, and the Mississippi Code of Judicial Conduct, Respondents Marcus Banks, in his capacity as Commissioner of Greenwood Leflore Hospital Board of Commissions, and the City of Greenwood, Mississippi respectfully request that the Honorable Willie J. Perkins, Sr. ("Chancellor Perkins") recuse himself from all further proceedings, hearings, and trials of this cause.

FACTS

1. On December 4, 2023, Petitioner Leflore County Board of Supervisors filed its *Emergency Petition for Temporary Preliminary and Permanent Injunction* ("Petition") against Respondents. MEC 2.

2. The Honorable Carolyn McAdams ("Mayor") is the Mayor of the City of Greenwood, Mississippi, a Respondent named in the Petition. *See generally McAdams v. Perkins*, 204 So. 3d 1257, 1259 (Miss. 2016) ("The City of Greenwood held a general election McAdams won the election"); Petition [MEC 2] at 1, ¶3 ("Respondent, City of Greenwood, is a political subdivision located in Greenwood, Mississippi and it may be served with process through Mayor Carolyn McAdams").

3. Chancellor Perkins represented the City of Greenwood’s former city attorney, James K. Littleton, in his defense against Mayor McAdams’ declaratory judgment action, as well as in Littleton’s appeal of the Leflore County Chancery Court’s decision to enjoin Littleton from serving as Greenwood’s city attorney after his termination. *See generally Littleton v. McAdams*, 60 So. 3d 169, 169–70 (Miss. 2011).

4. Chancellor Perkins also represented Greenwood City Councilmen David Jordan, Ronnie Stevenson, Charles E. McCoy, Sr., Tennill Cannon, and Carl Palmer in their appeal of the Court’s denial of the Councilmen’s request for sanctions against Mayor McAdams. *See generally Jordan v. McAdams*, 85 So. 3d 932, 938 (Miss. Ct. App. 2012).

5. Sheriel F. Perkins, Chancellor Perkins’ wife, filed an election contest against Mayor McAdams in 2013 after Mrs. Perkins lost the 2013 Greenwood mayoral election. *See generally Perkins v. McAdams*, 234 So. 3d 413, 414 (Miss. 2017) (“Sheriel F. Perkins lost the 2013 Greenwood mayoral race by 206 votes. She filed an election contest against the winner, Mayor Carolyn McAdams.”).

6. Chancellor Perkins, prior to his becoming a Leflore County Chancellor, represented Mrs. Perkins in (1) her election contest against Mayor McAdams, (2) Mayor McAdams’ appeal of the Leflore County Circuit Court’s decision holding that the Greenwood City Council’s decision to hire legal counsel to represent the City of Greenwood in an election contest exceeded the council’s power under the Mississippi Constitution, and (3) Mrs. Perkins’ appeal of the Leflore County Circuit Court’s order granting Mayor McAdams’ motion for directed verdict at the trial of Mrs. Perkins’ election contest. *See generally McAdams*, 204 So. 3d at 1259; *Perkins*, 234 So. 3d at 414–15.

ARGUMENT

7. Canons 3E(1) and 3E(1)(a) of the Mississippi Code of Judicial Conduct remove any doubt that Chancellor Perkins should recuse himself.

8. “Canon 3 of the Mississippi Code of Judicial Conduct governs recusal.” *Doe v. Adams Cty. Dep’t of Child Prot. Servs.*, 361 So. 3d 1282, 1292 (Miss. 2023) (internal quotation marks omitted) (quoting *Batiste v. State*, 337 So. 3d 1013, 1021 (Miss. 2022)).

9. Canon 3E provides in relevant part that

(1) Judges should disqualify themselves in proceedings in which their impartiality might be questioned by a reasonable person knowing all the circumstances or for other grounds provided in the Code of Judicial Conduct or otherwise as provided by law, including but not limited to instances where: (a) the judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding[.]”

Miss. Code of Jud. Conduct Canon 3E(1)(a).

10. The Canon is self-executing, and the Mississippi Supreme Court has held that it “enjoys the status of law such that we enforce it rigorously” *Collins v. Dixi Transp., Inc.*, 543 So. 2d 160, 166 (Miss. 1989). And in conjunction with Canon 3E, the Mississippi Supreme Court has “held consistently that the objective ‘reasonable person knowing all of the circumstances’ is the proper standard by which we determine if a judge should have recused himself.” *Dodson v. Singing River Hosp. Sys.*, 839 So. 2d 530, 532–33 (Miss. 2003) (collecting cases). Further, “[t]he proper standard is that recusal is required when the evidence produces a reasonable doubt as to the judge’s impartiality.” *Id.* at 533.

11. Mayor McAdams holds the executive power of the City of Greenwood and has control of all the officers and affairs of the City of Greenwood. *See* Miss. Code Ann. § 21-8-15 (“The executive power of the municipality shall be exercised by the mayor, and the mayor shall have the superintending control of all of the officers and affairs of the municipality”); Greenwood, Miss., Municipal Code § 2-1 (“The city shall be governed by the ‘mayor-council’

form of government . . .”). Therefore, while not explicitly named as a respondent to this action by the Petitioner, Mayor McAdams is a necessary party to this action against the City of Greenwood. In that regard, the Petition alleges that “[t]he City of Greenwood, by and through the Mayor of Greenwood, has influenced Mr. Banks to illegally remain on his seat on the hospital board.” MEC 2 at ¶ 8.

12. These facts, including Chancellor Perkins’ having represented parties against Mayor McAdams in at least four (4) cases, would cause a reasonable person knowing all the circumstances to question Chancellor Perkins’ impartiality in this case or, in other words, produce a reasonable doubt as to Chancellor Perkins’ impartiality. Miss. Code of Jud. Conduct Canon 3E(1); *Dodson*, 839 So. 2d at 533.

13. Further, Chancellor Perkins’ former representation of his wife against Mayor McAdams in Mrs. Perkins’ election contest and subsequent appeals demonstrates a likelihood of personal bias and prejudice against Mayor McAdams. Miss. Code of Jud. Conduct Canon 3E(1)(a). Chancellor Perkins’ recusal would avoid any prejudice to the City of Greenwood in this action resulting from Chancellor Perkins’ bias against Mayor McAdams.

14. Because Chancellor Perkins’ representation of various parties adverse to Mayor McAdams, including his representation of Mrs. Perkins in her election contest and subsequent appeals, creates a reasonable doubt as to Chancellor Perkins’ ability to remain impartial and shows Chancellor Perkins’ resulting, understandable personal bias against Mayor McAdams, Chancellor Perkins is disqualified from presiding over this matter and should recuse himself pursuant to Mississippi Code of Judicial Conduct Canon 3E(1) and 3E(1)(a).

Request for Relief

Respondents respectfully request that Chancellor Perkins recuse himself from all further proceedings, hearings, and trials of this cause. Should Chancellor Perkins decline to recuse himself, Respondents respectfully request that this action be stayed pending resolution of this issue by the Mississippi Supreme Court. Respondents further request general relief.

Dated: December 15, 2023.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, James W. Shelson, hereby certify that on this date, I caused a true and correct copy of the foregoing motion to be filed using the Court's MEC electronic filing system, which sent notice of the filing to all counsel of record.

Dated: December 15, 2023.

/s/ James W. Shelson

James W. Shelson