

FILED
SUPREME COURT
STATE OF WASHINGTON
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Supreme Court Case No. 97057-2
Court of Appeals No. 50997-1-II
Kitsap County Superior Court No. 17-2-00146-7

SUPREME COURT OF THE STATE OF WASHINGTON

JOHN SCANNELL, *petitioner*

v.

GIORGIY BULKHAK, *respondent*

**ON APPEAL FROM KITSAP COUNTY SUPERIOR COURT
STATE OF WASHINGTON**

MOTION TO DISQUALIFY ENTIRE SUPREME COURT PANEL

John Scannell
543 6th St.
Bremerton WA. 98337

Cases

Bessemer v. McCain 957 So.2d 1061, 1092-1093 (Ala. 2006)..... 2

In re Disciplinary Proceeding Against Sanders, 145 P.3d 1208, 1209 n*. cert
denied sub nom. *Sanders v. Washington State Commission on Judicial Conduct*
128 S. Ct. 137 (2007)..... 4

In re Grimes, 494 P.2d 635 (Okla. 1971). 3

Janus v. AFSCME 585 U.S. ____ (2018) 3

Johnson Timber Corp. V. Sturdivant, 758 S.W.2d 415 (Ark. 1988)..... 2

Kekoa v. Supreme Court, 4888 P.2d 1406, 1406-1407 (Haw. 1971)..... 2

State ex rel. Linde v. Robinson, 160 N.W. 512, 814 (N.D. 1916)..... 3

White v. Priest, 73 SW.W 3d 572, 583-584 (Ark. 2002)..... 2

MOTION TO DISQUALIFY ENTIRE WASHINGTON STATE
SUPREME COURT FROM HEARING THIS APPEAL

COMES NOW John Scannell who moves to disqualify the entire Washington state Supreme Court from hearing this appeal.

While a motion to disqualify an entire Supreme Court panel is unusual, it is not without precedent. There have been 6 states that have disqualified an entire panel including Washington State.¹

¹ In Alabama a provision of the state constitution (Ala. Const. Art. VI 149) allows the chief justice to appoint an active or retired judge of an inferior court as a special justice of the supreme court. This provision has occasionally been applied to create a special supreme Court composed entirely of special justices. See *Bessemer v. McCain* 957 So.2d 1061, 1092-1093 (Ala. 2006).

A provision of the Arkansas state constitution (Ark. Const. Amend 880 '13) allows the governor to appoint a retired justice, an active judge of an inferior information about the methods of selection and retention of regular supreme court justices is taken from American Judicature Society, *Judicial Selection Methods in the States* (2008) App. 2 court or a licensed attorney as a special justice of the supreme court in place of a regular justice disqualified from sitting in a particular case. See *White v. Priest*, 73 SW.W 3d 572, 583-584 (Ark. 2002). The provision has been applied to create a supreme court composed entirely of special justices. See *Johnson Timber Corp. V. Sturdivant*, 758 S.W.2d 415 (Ark. 1988).

In Hawaii, a provision of the state constitution (Haw. Const. Art. 6, '2) authorizes the chief justice to assign judges of inferior courts and retired supreme court justices to serve temporarily on the supreme court. For a case anticipating decision by a supreme court composed entirely of district court judges see *Kekoa v. Supreme Court*, 4888 P.2d 1406, 1406-1407 (Haw. 1971)

A provision of the North Dakota (N.D.Const. art. VI, '11) direct the chief justice to assign an active or retired judge of an inferior court or a retired justice to hear a pending case in pace of a justice unable to sit because of conflict of interest or physical or mental incapacity. For a case in which

This case is just the kind of case that requires the entire Supreme Court to step aside. The Petitioner John Scannell and the individual Supreme court members are no strangers. Scannell has repeatedly sued the Washington State Supreme court, the most recent being a case where he was denied a position on the ballot for Supreme Court because he was not a member of the Washington State Bar Association. Scannell contends this decision is in direct opposition of his constitutional right to disassociate from the organization, as recently ruled in *Janus v. AFSCME* 585 U.S. ____ (2018), That case is still active and pending in the ninth circuit court of appeals.

In the case at bar, the Washington State Supreme Court is asked to dispossess Scannell from his property in Bremerton with an unlawful detainer action before clearing title with the owner in possession, which is direct opposition to not only case law in other states but Washington State

the entire supreme court was composed of district judges acting as supreme court justices see *State ex rel. Linde v. Robinson*, 160 N.W. 512, 814 (N.D. 1916)

In Oklahoma Rule 9(c), citing a statute (Okla. Stat., Tit. 20, §1402 (2001) provides that when all regular supreme court justices are disqualified from sitting in case, “then the Chief justice shall request that the Governor appoint qualified members of the bar to sit in the case as special justices.” For a case in which the entire supreme court was composed of special justices see *In re Grimes*, 494 P.2d 635 (Okla. 1971).

In Washington state, for a case in which the entire supreme court was composed of justices pro tempore, see *In re Disciplinary Proceeding*

as well. Neither the second division court of appeals, nor the respondents have been able to provide any meaningful authority for their position, other than unrelated irrelevant statutes.

If Washington State is going to actually attempt to set such a precedent, then it should be done by a disinterested panel of judges selected as in the Sanders case, not judges who have a direct conflict of interest with Scannell due to a pre-existing case.

Conclusion

For the reasons given in this motion, the petitioner respectfully requests the entire Supreme Court disqualify themselves and a new panel of disinterested judges be appointed..

Dated this 5th day of July, 2019



John Scannell.

Against Sanders, 145 P.3d 1208, 1209 n*. cert denied sub nom. *Sanders v. Washington State Commission on Judicial Conduct* 128 S. Ct. 137 (2007)

JOHN SCANNELL - FILING PRO SE

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