

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

LEONARD POZNER,

Plaintiff,

vs.

Case No. 18CV3122

JAMES FETZER,

Defendant.

MOTION FOR RECONSIDERATION OF DENIAL OF MOTION TO RECUSE

NOW COMES Dr. James H. Fetzer, Ph.D., Pro Se Defendant, responding to Judge Frank Remington's DECISION AND ORDER DENYING JAMES FETZERS MOTION TO RECUSE dated and filed August 22, 2024, moves for Judge Remington to reconsider his Denial on the ground that it does not respond to the specific allegations of violations of Dr. Fetzer's due process and civil procedure rights set forth in his MOTION TO RECUSE JUDGE FRANK REMINGTON PURSUANT TO WIS. STATS. 757.19(2)(g). As it states, *Any judge shall disqualify himself or herself from any civil or criminal action when one of the following situations occurs: (g) when a judge determines that, for any reason, he or she cannot, or it appears he or she cannot, act in an impartial manner* (emphasis added).

Instead of responding to seven (7) specific allegations (succinctly summarized in Dr. Fetzer's DEFENDANT'S REPLY of July 31, 2024)—including suppressing the Affidavit of Kelley Watt, dismissing proof that nobody died at Sandy Hook and that Noah Pozner was a legal fiction, setting aside the reports of two (2) forensic document experts, denying Fetzer

discovery on his counterclaims, failing to acknowledge Dr. Fetzer as a media person, holding him in contempt when he sought to expose the impostor witness, and more recent procedural violations to suppress the proof of his egregious misconduct as quickly as possible—Judge Remington focuses upon a (relatively minor) garnishment decision, which is currently under appeal for rendering an opinion inconsistent with that of the Court of Appeals (IV) itself. All previous submissions in Case No. 18CV3122 are incorporated and adopted for the purpose of this Motion.

FACTS OF THE CASE

(1) Dr. James Fetzer files MOTION TO RECUSE JUDGE FRANK REMINGTON PURSUANT TO WIS. STATS. 757.19(2)(g) dated July 9, 2024 (Exhibit B).

(2) PLAINTIFF’S RESPONSE IN OPPOSITION TO DEFENDANT’S MOTION TO RECUSE dated and filed July 24, 2024 (Exhibit C).

(3) Dr. Fetzer files DEFENDANT’S REPLY dated July 31, 2024 (Exhibit D).

(4) Judge Remington’s (Non-Final) DECISION AND ORDER DENYING JAMES FETZER’S MOTION TO RECUSE dated and filed August 22, 2024 (Exhibit A)

(5) Dr. James Fetzer filed BRIEF OF APPELLANT dated July 19, 2024 (Exhibit E).

ARGUMENT

The failure of Judge Remington to address the seven (7) allegations of bias and lack of impartiality constitutes an implicit acknowledgment that he is unable to excuse or to “explain them away”. Judge Remington instead discusses a garnishment opinion and decision currently before the Court of Appeals IV in Case No. 24AP1329 (Exhibit E; Appendix not included). Dr. Fetzer filed this appeal because Judge Remington has not only allowed the Plaintiff to garnish money that does not belong to the debtor but

has resubmitted a decision and opinion inconsistent with that of the Court of Appeals in response to Defendant's previous appeal that Plaintiff was taking money from Dr. Fetzer's wife, Janice Fetzer—including her half of both their joint state and federal tax returns and other funds of hers—after the Court of Appeals had specifically directed that could not be done and demanded a new opinion and decision consistent with the opinion and decision of the Court of Appeals.

Ironically, his own example substantiates Judge Remington's disposition to treat Dr. Fetzer unfairly and to violate his due process and civil rights under color of law. While Judge Remington implies that Dr. Fetzer's allegations of judicial misconduct against Judge Remington are meant to settle the score (or "get even") for garnishing Dr. Fetzer's property, the situation is precisely the opposite. Even in this (his own example) case, Judge Remington's opinions and decisions are not based upon the merits or the statutes and entail gross violation of SCR Chapter 60, Code of Judicial Conduct 60.04, *Under this rule, a judge must recuse himself or herself whenever the facts and circumstances the judge knows or reasonably should know raise reasonable question of the judge's ability to act impartially, regardless of whether any of the specific rules in SCR 60.04 (4) applies.*

Wis. Stats. Chapter 757. General Provisions Concerning Courts of Record, Judges, Attorneys and Clerks, under Section 757.19 Disqualification of judge, specifically 757.19 (2) asserts, *Any judge shall disqualify himself or herself from any civil or criminal action when one of the following situations occurs: (g) when a judge determines that, for any reason, he or she cannot, or it appears he or she cannot, act in an impartial manner* (emphasis added). In relation to the 26 exhibits A-Z supporting Dr. Fetzer's Motion to

Open Judgment Pursuant to Extrinsic Fraud and Fraud Upon the Court filed on June 20, 2024 (cited below as “MOJ”), Dr. Fetzer has submitted the following proofs of bias and partiality by Judge Remington, who was acting in collusion with the Pozner attorneys.

From DEFENDANT’S REPLY (Exhibit D, 3-6) **in red** for the Court’s convenience:

(1) Judge Remington Suppressed the Affidavit of Kelley Watt

Judge Remington’s approach was to manufacture a predetermined outcome by finding that Dr. Fetzer had libeled Leonard Pozner by declaring a death certificate that Pozner himself had provided to Dr. Fetzer’s research colleague, Kelley Watt, to be fake. It was done by substituting a different and complete death certificate in the Complaint. The published death certificate, unlike the substitution, had no file number nor state or town certification. Under CT law, not even parents are allowed to possess incomplete death certificates. Kelley Watt’s Affidavit exposes the fraud and vitiates the case against Dr. Fetzer but was suppressed by Judge Remington in collusion with the Pozner attorneys (MOJ, Exhibits J, K, and V).

(2) Judge Remington Dismissed Proof that Nobody Died at Sandy Hook

Judge Remington excluded Dr. Fetzer’s proof that nobody died at Sandy Hook on both legally and logically absurd grounds, when he declared that, “whether or not Sandy Hook ever happened or not is not relevant to this – the – the truthfulness or the accuracy of the death certificate”. But the death certificate states the decedent died at Sandy Hook on December 14, 2012, of “multiple gunshot wounds” (MOJ, Exhibit M). Once again, the proof amassed in Dr. Fetzer’s co-edited book, *Nobody Died At Sandy Hook: It was a FEMA Drill to Promote Gun Control* (2015; 2nd ed., 2016), was inconsistent with Pozner’s position, thereby producing disputed facts that, had they been admitted, required a jury.

(3) Judge Remington Set Aside Reports of Two Forensic Document Experts

Having restricted the issue to the authenticity or truthfulness of the death certificate and having disallowed extensive and detailed proof Dr. Fetzer had submitted in defense, Dr. Fetzer provided reports of two (2) forensic document experts—Larry Wickstrom and A.P. Robertson—who found not only that the incomplete death certificate published by Dr. Fetzer was fake but that the complete death certificate attached to the Complaint was also fake (along with two others obtain from the Town of Newtown and from the State), Judge Remington simply dismissed them as “someone else’s opinion” and said, “I just don’t think they were helpful” (MOJ, Exhibit R, pages 163 and 165). Their uncontested reports (again) vitiated the case against Dr. Fetzer by proving his statements were true.

(4) Judge Remington denied Dr. Fetzer Discovery on his Counterclaims

To ensure that Dr. Fetzer not discover more proof of the non-occurrence of mass murder or that the decedent had not died at Sandy Hook, Judge Remington took the further step of bifurcating the case to deny Dr. Fetzer discovery on his counterclaims of Abuse of Process, Fraud and Theft by Deception, and Fraud upon the Court, a deft maneuver to cut off Dr. Fetzer’s access to new evidence that might strengthen his case (MOJ, Exhibit N). This denial of Dr. Fetzer’s right to discovery has now been used to claim that Dr. Fetzer had not made allegations of Fraud upon the Court in a timely manner, brought about by Judge Remington’s denial of Dr. Fetzer’s discovery rights.

(5) Judge Remington Refused to Admit Proof that Noah Pozner is a Fiction

Dr. Fetzer repeatedly advanced proof that the alleged decedent, Noah Pozner, was not a real person but a legal fiction created out of photographs of his purported older half-brother, Michael Vabner. Dr. Fetzer raised the issue by moving to expand DNA testing to include,

not just Noah Pozner and Leonard Pozner, but Michael Vabner and Reuben Vabner, whom Dr. Fetzer had concluded to be the basis for “Noah” and for “Leonard” (MOJ, Exhibit O). This fact has now been substantiated by the Affidavit of Brian Davidson, P.I., who has also established that the party who testified as “Leonard Pozner” in Madison is not the same person as the “Leonard Pozner” of Sandy Hook, whose image has appeared millions of times around the world (MOJ, Exhibits W, X, and Y). This has enormous importance, not least of all because it implicates Pozner’s attorneys in the subornation of perjury.

(6) Judge Remington Refused to Acknowledge Dr. Fetzer as a Media Person

To lower the bar for finding Dr. Fetzer liable, Judge Remington declined to rule that Dr. Fetzer had media standing as an investigative journalist, even though Dr. Fetzer had submitted a brief laying out his experience as an investigative journalist/reporter for decades, including paid assignments (MOJ, Exhibit U). Even more blatantly, Dr. Fetzer was being sued over three sentences in a book he had co-edited and another in a separate publication to which he had contributed. How could Judge Remington, who insisted that he read every document submitted to the court, have missed this?

(7) When Dr. Fetzer tried to Expose the Impostor, he was Sanctioned

Among the most important tells that Judge Remington was acting in concert with the Pozner attorneys is that, when Dr. Fetzer attempted to expose the party who had testified under the name of “Leonard Pozner” as an impostor (because he was too young and too small to be the Sandy Hook Pozner), Dr. Fetzer sent the video deposition to Wolfgang Halbig for confirmation. Judge Remington took offense and held Dr. Fetzer in Contempt of Court, adding attorney fees in the amount of \$650,000 to the \$450,000 that would be awarded by the jury for

his purported defamation of Leonard Pozner, thereby protecting himself and the Pozner attorneys, when Dr. Fetzer had told the truth (MOJ, pages 11-15).

Judge Remington has been so eager to avoid his exposure that he has now violated Dr. Fetzer's due process rights by abandoning the Wisconsin Rules of Civil Procedure, Chapter 802, not once or twice, but three times: (1) by rejecting Dr. Fetzer's Motion to Open Judgment Pursuant to Extrinsic Fraud and Fraud upon the Court filed on June 20, 2024; (2) by rejecting Dr. Fetzer's Request for Relief from Judgment or Order filed on June 20, 2024, and (3) by granting Plaintiff's Motion to Seal or Redact a Court Record filed on June 24, 2024.

The Pozner Response thus fails. It was not making decisions per se that deprived Dr. Fetzer of his legal rights but the decisions that Judge Remington made. The pattern of ruling to deny Dr. Fetzer's motions and facts to produce no disputed facts when the case was factually contradictory from the beginning reveals that Judge Remington was acting with partiality and bias—of a rather extreme variety given he manufactured the absence of disputed facts to apply Summary Judgment—in a case that had to be sent to a jury for fact resolution. This goes far beyond the appearance of partiality and bias.

Judge Remington together with the Pozner attorneys in opposition—including Jake Zimmerman (Pro Hac Vice), Genevieve Zimmerman (WI #1100693), and Emily M. Feinstein (WI SBN: 1037924)—acted in concert to deprive Dr. Fetzer his right to present a valid defense by violating the Wisconsin Rules of Civil Procedure and denying Dr. Fetzer his right to a trial by jury. They (separately and jointly) sabotaged these proceedings by going so far as to suborn perjury by an impostor witness. And when Dr. Fetzer attempted to expose the fraud, he was (in no uncertain terms) smacked down by Judge Remington, lest the deception become known. They don't want to be held to account for multiple violations of Supreme Court Rules

and Rules of Civil Procedure whereby they committed Fraud upon the Court (Dekker, 214 Wis. 2d at 21) by eliminating disputed facts and fabricating a case against him.

To which Judge Remington has offered no defense because he has no defense to offer.

RELIEF SOUGHT

By suppressing the Affidavit of Kelley Watt, dismissing proof that nobody died at Sandy Hook and that Noah Pozner was a legal fiction, setting aside the reports of two forensic document experts, denying Dr. Fetzer discovery on his counterclaims, failing to acknowledge Dr. Fetzer as a media person and holding him in contempt when he sought to expose the impostor witness—together with his more recent procedural violations to suppress the proof of his egregious misconduct as quickly as possible— Judge Remington has egregiously violated Wis. Stats. Chapter 757. General Provisions Concerning Courts of Record, Judges, Attorneys and Clerks, under Section 757.19(2)(g) Disqualification of Judge. Dr. Fetzer therefore moves that Judge Remington reconsider his DENIAL OF JAMES FETZER'S MOTION TO RECUSE and now promptly recuse himself from this case and any further associated proceedings.

Electronically signed by:

Respectfully submitted,

/s/ James H. Fetzer, Ph.D.

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