

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED
03/30/2020
Clerk of the
Appellate Courts

**IN RE: AMENDMENT TO RULE 10B, SECTION 1
RULES OF THE TENNESSEE SUPREME COURT**

No. ADM2020-00507

ORDER

The Court is considering amending Tennessee Supreme Court Rule 10B, section 1, as it pertains to the timeliness of a filed motion for recusal or disqualification. The proposed amendment is set out in the attached Appendix to this Order.

The Court hereby publishes the proposed amendment for public comment and solicits written comments from the bench, the bar, and the public. The deadline for submitting written comments is April 29, 2020. Written comments may be emailed to appellatecourtclerk@tncourts.gov or mailed to:

James M. Hivner, Clerk
Re: Tenn. Sup. Ct. R. 10B, section 1
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

and should reference the docket number set out above.

The Clerk shall provide a copy of this Order, including the Appendix, to LexisNexis and to Thomson Reuters. In addition, this Order, including the Appendix, shall be posted on the Court's website.

It is so ORDERED.

PER CURIAM

TENN. SUP. CT. R. 10B, SECTION 1

[New text is indicated by underlining/Deleted text is indicated by striking]

Section 1. Motion Seeking Disqualification or Recusal of Trial Judge or Court of Record

1.01. Any party seeking disqualification, recusal, or a determination of constitutional or statutory incompetence of a judge of a court of record, or a judge acting as a court of record, shall do so by a ~~timely filed~~ written motion filed promptly after a party learns or reasonably should have learned of the facts establishing the basis for recusal. The motion shall be filed no later than ten days before trial, absent a showing of good cause which must be supported by an affidavit. The motion shall be supported by an affidavit under oath or a declaration under penalty of perjury on personal knowledge and by other appropriate materials. The motion shall state, with specificity, all factual and legal grounds supporting disqualification of the judge and shall affirmatively state that it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. A party who is represented by counsel is not permitted to file a pro se motion under this rule.

1.02. While the motion is pending, the judge whose disqualification is sought shall make no further orders and take no further action on the case, except for good cause stated in the order in which such action is taken.

1.03. Upon the filing of a motion pursuant to section 1.01, the judge shall act promptly by written order and either grant or deny the motion. If the motion is denied, the judge shall state in writing the grounds upon which he or she denies the motion.

1.04. Designation Procedure. A judge who recuses himself or herself, whether on the judge's own initiative or on motion of a party, shall not participate in selecting his or her successor, absent the agreement of all parties. With the agreement of all parties to the case, the judge may seek an interchange in accordance with Tenn. Sup. Ct. R. 11, § VII(c)(1). Otherwise, the presiding judge of the court shall effect an interchange in accordance with Tenn. Sup. Ct. R. 11, § VII(c)(2) and/or (3) in sequential order. If the presiding judge is the recused judge, the presiding judge shall take no action in selecting a successor. In such cases, the presiding judge pro tempore of the court shall effect an interchange in accordance with Tenn. Sup. Ct. R. 11, § VII(c)(2) or (3). If an interchange cannot be effected by following the above procedure in sequential order, the presiding judge or the presiding judge pro tempore shall request - by using the designation request form appended to this rule - the designation of a judge by the Chief Justice, pursuant to Tenn. Sup. Ct. R. 11, § VII(c)(4). In a judicial district where the presiding judge is the only judge and he or she recuses himself or herself, the judge shall skip the sequential steps set forth in Tenn. Sup. Ct. R. 11, § VII(c)(2) and (3) and instead request the designation of a judge by the Chief Justice, pursuant to Tenn. Sup. Ct. R. 11, § VII(c)(4), using the designation request form. Similarly, if the recusing judge is a general sessions judge or juvenile court judge, and he or she is the only general sessions or juvenile court judge in that county, the judge shall skip the sequential steps set forth in Tenn. Sup. Ct. R. 11, § VII(c)(2) and (3) and instead request the designation of a judge by the Chief Justice, pursuant to Tenn. Sup. Ct. R. 11, § VII(c)(4), using the designation request form. Special permission to skip the sequential steps may be granted by the Chief Justice for good cause shown.