

IN THE FAMILY COURT OF ERIE COUNTY
Buffalo, NY

In the matter of a custody/visitation proceeding

LAUREN HAIDON

Petitioner

v.

Matthew Couloute

Respondent

File: 204566

Docket:

Judge Sharon LoVallo

MOTION TO RECUSE

MOTION TO RECUSE LOVALLO, J.

18 USC §242 / NYCRR Title 22 Part 100

The undersigned moves for recusal of LoVallo, J. in the instant case for criminal acts of deprivation of rights under 18 USC §242 along with violation of Rules of Judicial Conduct Part 100.

1. On or about 1 March, LoVallo, J. did violate Constitutional rights and privileges of one Patrick Haidon, by threatening him with incarceration to force the surrender of the petitioner for an out of state warrant not before her court and not being pursued by state law enforcement. The court lacked jurisdiction to threaten illegal incarceration. Such threats from the bench, lacking notice and summons, due process and of judicial misconduct being cause for recusal.
2. The act of threatened incarceration of Patrick Haidon is criminal conduct under federal law as Section 242 of Title 18 makes it a crime for a person acting under color of any law to willfully deprive a person of a right or

privilege protected by the Constitution or laws of the United States. Judicial threats of incarceration for purpose of coercion of a third party is such a crime.

3. The threat noted above is beyond the bounds of LoVallo's official authority and requires recusal for cause under NYCRR Title 22, Part 100, Judicial Conduct.
4. LoVallo, J. by improperly dismissing a properly filed motion for modification (UCCJEA Form 9), without a First Appearance, without notice, summons and hearing, did abandon judicial duty; demonstrated bias & prejudice against the petitioner; ignored due process, equal protection and did undermine public confidence in the court. Such acts being denial of access to the court, deprivation of civil rights by violation of due process; all requiring recusal of the offending judicial authority.
5. LoVallo, J. did criminally violate civil rights in denial of equal protection in that she accepted a full faith and credit claim to the out of state custody orders argued by the respondent on or about 19 July which is proscribed by *Halvey v Halvey*, 330 US 610 (1947), cert to NY Court of Appeals. NY and SCOTUS have both ruled that custody orders lack *res judicata* and are not final judgments entitled to such credit. LoVallo, J. demonstrates incompetence and unfaithfulness to the law, undermining the legitimacy of the court.
6. LoVallo, J. holds evidence provided by appearing counsel of father respondent's residency in Georgia, but makes ruling of residency in Connecticut without inquiring to the respondent father, while ignoring the

question as raised by DSS. Conspiring to commit perjury and fraud upon the court is a criminal act by the judicial authority. NY Penal Code Article 210.15.

7. LoVallo, J. did demonstrate bias & prejudice against the petitioner by singularly dismissing state complaint of child neglect against the respondent father, but left in place the complaint against the mother. As the neglect allegations cited acts of parental acts of violence in view of the child, there is a display of legal impropriety, bias and prejudice for preferential dismissal in favor of the respondent father, such being cause for judicial recusal. There is no foundation in common law for domestic violence to display by only one participant.
8. LoVallo, J. did display bias & prejudice against the mother by limiting her access to the child in state custody to less than what was allowed for the father. Mother is a victim of domestic violence, has fractured ribs, bruises and psychological trauma at the fist of the father, but the court of LoVallo, J. punishes the mother absent basis in law by denying equal visitation to her own child. Recusal required.
9. LoVallo, J. did ignore court duty in disregard for the absence of a proper child support order, mandated by state statute. Such bias against the needs of a child is heinous and requires recusal of a callous judge who acts against the best interests of children, while paid with state and federal funds.
10. LoVallo, J. did abandon judicial duty by ignoring the law of the state and the legislative intent against perpetrators (respondent) of domestic violence as stated in D.R.L. §75 [2] which states:

2. It is the intent of the legislature in enacting this article to provide an effective mechanism to obtain and enforce orders of custody and visitation across state lines and to do so in a manner that ensures that the safety of the children is paramount and that victims of domestic violence and child abuse are protected. It is further the intent of the legislature that this article be construed so as to ensure that custody and visitation by perpetrators of domestic violence or homicide of a parent, legal custodian, legal guardian, sibling, half-sibling or step-sibling of a child is restricted pursuant to subdivision one-c of section.

11. LoVallo, J. did fail to uphold the law, failed to enact the will of the sovereign people, disregarded statute and placed mother and child at risk by a perpetrator of domestic violence; recusal so required.
12. As the instant matter continues to drag out into its eight month with no plans, no conferences, no mediation, nothing but aimless judicial missives absent even understanding of the law, there is little purpose in continuing with a judge who is also engaged in criminal conduct, ignorance of the law and who openly admits to the necessity of vacating her orders of 17 July; such being the mark of an illegitimate court.
13. LoVallo, J. did abandon judicial duty, fail her oath of office, fail to uphold rights of the people, failed to recognize the public right of scrutiny of matters in a public forum under the First Amendment and without notice to the public, or allowing public to be heard, did issue a gag order citing no overriding purpose to exclude the public's observance of a state employee executing official duties in public forum. Such being tyranny and betrays her as a domestic enemy of the Constitution; recusal mandatory for high treason.

14. In regard to NYCRR Title 22, Judiciary, Part 100 Judicial Conduct the following is enumerated:

Part 100.1: LoVallo, J. does not establish, maintain, nor enforce the high standards of conduct or integrity required to preserve an honorable judiciary so indispensable to justice.

Part 100.2: LoVallo, J. demonstrates impropriety and the appearance of impropriety in the instant case; bias against victim of domestic violence, conspiracy to commit fraud upon the court, aiding and abetting perjury.

(A). She does not respect nor comply with the law and acts in a manner which undermines the public confidence in the integrity and impartiality of the judiciary; fails to comply with DRL §75 [2].

Part 100.3: LoVallo, J. fails to perform duties of judicial office impartially nor diligently.

(A). She fails to executed duties prescribed by law; fails to hear petitioner's or DSS pleadings.

(B)(1). She is unfaithful to the law, maintains no professional competence in it. She makes public clamor a matter of court proceedings; demonstrates no understanding of NY UCCJEA.

(B)(2). She fails to maintain order and decorum in these proceedings, running the court like a circus, ruling on hearsay and acting on facts not in evidence.

(B)(3). She is not patient, dignified nor courteous to litigants in official dealings; rants from the bench fail to further the cause of justice.

(B)(4). She is bias and prejudice against the mother petitioner, the grandfather, 1017 and the county DSS. By words from the bench, conduct and opinion, she manifests bias & prejudice upon, age, disability, marital status, sexual orientation and socioeconomic status.

(B)(5). She allows counsel to manifest bias & prejudice against litigants in court proceedings; counsel blocking TRO applications and failing to executed discovery of residency being failure of due process.

(B)(6). She does not allow persons to be heard, she failed to make residency determination of the father respondent, she failed to allow DSS to try their case at a proper trial, she failed to hold hearing of motion to modify, she failed to properly determine jurisdiction on matters of law.

(B)(6)(a). She failed to address the ex parte notifications of perjury by counsel that respondent father holds a Georgia driver's license obtained by claiming residency. Such material matter ignored by the court is conspiracy fraud, a criminal matter, made no notification and did not even request respondent to produce said license.

(B)(6)(b). She failed to obtain expert advice on a matter of law (UCCJEA) which she could not comprehend nor properly adjudicate.

(B)(6)(c). She failed to consult with court personnel to determine the residency of the respondent; any court security officer could have settled the question instantly.

(B)(7). She failed to dispose of this matter promptly, efficiently nor fairly. She merely dismissed it and told the mother to go file in Connecticut, absent due process, equal protection or foundation in law. A de facto unconstitutional denial of mother petitioner's access to the court.

(D)(2). She received information via appearing counsel that the respondent father, a licensed attorney, admitted to the NY Bar, properly held a Georgia State driver's license, such being evidence of residency. The information was germane to the jurisdiction of the court; evidence of perjury by the respondent; such being a substantial violation of the Code of Professional Responsibility; she took no action.

(D)(3). Her failing to act in discharge of disciplinary responsibility is willful abandonment of judicial duties.

(E)(1). As her impartiality is reasonably questioned, she shall disqualify herself.

15. The judicial authority may refer to discussion and citations in *People v. Moreno*, 70 NY 2d 403 - NY: Court of Appeals (1987) for basis of recusal on prejudice/ bias/impropriety/abuse of discretion/misconduct/incompetence. The impartiality of LoVallo J., is reasonably questioned where no effort is even made to avoid the appearance of such; disqualification required by Code of Judicial Conduct, 22 NYCRR Part 100; see *Matter of Murphy*, 82 N.Y.2d 491, 495 - NY: Court of Appeals (1993); criminal conduct notwithstanding.

WHEREFORE, the aforementioned presented, immediate recusal is of constitutional necessity.

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cc:

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