

From: Cooper Strickland

Sent: Sunday, February 24, 2019 5:26 PM

To: PII @ca4.uscourts.gov

CC: PII @ca4.uscourts.gov; Caryn Devins

Subject: Renewed Request for Disqualification (EDR Claim)

Attachments: Renewed Request for Disqualification (EDR Claim Strickland).pdf

Dear Chief Judge Gregory:

The following document is a renewed request by Complainant Ms. Caryn Devins Strickland to disqualify Mr. Anthony Martinez under the Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan of the United States Court of Appeals for the Fourth Circuit.

If you have any questions, please feel free to contact me. I may be reached by email or by phone at PII.

Respectfully,

Cooper Strickland
Representative for Claimant

Strickland v. US
Trial Ex.
031

002654

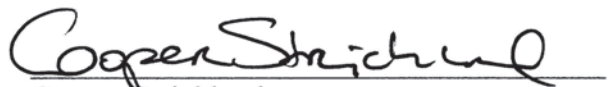
In The
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

In the Matter of a Request Filed)
)
Under Employment Dispute Resolution)
)
Plan of the United States Courts)
)
of the Fourth Circuit)
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_____)

**RENEWED REQUEST FOR
DISQUALIFICATION**

For the reasons set forth in the attached letter to the Honorable Roger L. Gregory, dated February 24, 2019, the Claimant, Ms. Caryn Devins Strickland, requests that the Federal Public Defender for the Western District of North Carolina, Mr. Anthony Martinez, be disqualified from performing, in an official capacity (e.g., unit executive), any of the claim procedures on behalf of the employing office as set forth in Chapter X of the Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan of the United States Court of Appeals for the Fourth Circuit (Nov. 2018) and that the Fourth Circuit Judicial Council be appointed to represent Ms. Strickland's employing office in this matter.

This the 24th day of February, 2019.


Cooper Strickland
N.C. State Bar No. 43242 (Active)
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Representative for Claimant
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Lynn, NC 28750

Cooper Strickland
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February 24, 2019

[Via Electronic Transmission: **PII**@ca4.uscourts.gov]

The Honorable Roger L. Gregory
Chief Judge
U.S. Court of Appeals for the Fourth Circuit
1100 E. Main Street
Richmond, VA 23219

RE: Renewed Request for Disqualification

Dear Chief Judge Gregory:

As an alleged violator of protected employment rights, the individual interests of the Federal Public Defender for the Western District of North Carolina, Mr. Anthony Martinez (“Mr. Martinez”), are fundamentally divergent from the interests of the employing office. His personal conflict of interest results in prejudice to the Claimant, Ms. Caryn Devins Strickland (“Ms. Strickland”), through his official role in fulfilling the claim procedures set forth in Chapter X of the Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan of the United States Court of Appeals for the Fourth Circuit (Nov. 2018) (the “EDR Plan”). For the following reasons, Ms. Strickland respectfully requests that the Court disqualify Mr. Martinez and that the Fourth Circuit Judicial Council represent Ms. Strickland’s employing office in this matter. See, e.g., EDR Plan, Ch. X, § 3.

Pursuant to Chapters IX and X of the EDR Plan, Ms. Strickland has alleged that Mr. Martinez personally denied her employment rights provided by the EDR Plan. Her allegations against Mr. Martinez and other employees under his supervision are documented in her request for counseling and mediation and in interviews with and evidence submitted to the Court’s investigator. At each stage of this process, Ms. Strickland has repeatedly alleged that Mr. Martinez subjected her to legally actionable retaliation for reporting sexual harassment by First Assistant JP Davis.

Ms. Strickland’s allegations were jointly investigated for purposes of Chapters IX and X, including her claim of retaliation by Mr. Martinez. The joint investigation process concluded after the investigator submitted a revised report containing findings and recommendations.¹ Ms.

¹ The joint report was submitted shortly before the conclusion of an extended counseling period. Prior to the end of counseling, Ms. Strickland requested an additional extension to allow time for the Court to consider the results of the joint investigation prior to the conclusion of counseling.

Strickland believed that the joint investigation would be considered by the Court in deciding her September 10, 2018 written request to disqualify Mr. Martinez pursuant to Chapter X, Section 7 of the EDR Plan. Ms. Strickland has been informed that the Court intends to deny her disqualification request and that a written decision is forthcoming. To date, however, the Court has not communicated a decision to her in writing.

Disqualification of Mr. Martinez remains appropriate and is an available remedy under the terms of the EDR Plan. Under the “General Disqualification Provision” of Chapter X, “[a] party may seek disqualification of a judicial officer, *employee* or other person *involved in* a dispute by written request to the Chief Judge.” *Id.*, Ch. X, § 7 (emphasis added). For purposes of the EDR Plan, “employee” is defined as “all individuals listed in § 2 of this Chapter,” including “[t]he *unit executive* and staff of the . . . Federal Public Defenders within the Fourth Circuit.” *Id.*, Ch. I, §§ 2–3 (emphasis added). Mr. Martinez is the “unit executive” of the employing office, *see id.*, Ch. II, § 3.A, and he is “involved in” this dispute as an alleged violator of Ms. Strickland’s employment rights. As an “employee” that is “involved in” this dispute, Mr. Martinez is subject to disqualification under the express terms of the EDR Plan.

Disqualification is also consistent with analogous provisions in the EDR Plan. For example, if Mr. Martinez had initially violated Ms. Strickland’s rights, she would have been “encouraged to discuss the matter with the EDR Coordinator,” not with Mr. Martinez. *Id.*, Ch. X, § 2. Presumably, the EDR Plan recommends this reporting alternative to avoid the risk of abuse of process by an alleged violator and the high probability of distress that an aggrieved employee would experience from reporting a violation to the alleged violator. Similarly, if a judge is accused of violating the rights of an employee, “all the *claims procedures* of [Chapter X] shall be performed by the Fourth Circuit Judicial Council.” *Id.*, Ch. X, § 3 (emphasis added). This provision prohibits an accused judge from participating in an official capacity in counseling, mediation, or the final hearing. The EDR Plan also prohibits the Chief Judge from considering a disqualification request if the Chief Judge is “*named* as being involved in a dispute.” *Id.*, Ch. X, § 7 (emphasis added). Without these conflict of interest provisions, an aggrieved employee could be compelled to seek relief from the alleged violator, potentially risking institutional and procedural “retaliation” for “filing a claim pursuant to [the EDR Plan].” *See id.*, Ch. X, § 5.

Ms. Strickland is also concerned that if Mr. Martinez is not disqualified before the hearing stage, then Mr. Martinez will be entitled to legal representation both as the representative of the employing office and as an accused individual. *Id.*, Ch. X, § 10.B.2.c. Similarly, Mr. Martinez will have the right to present evidence and cross-examine witnesses at the hearing in both his official and individual capacities. *Id.* These hearing rights create a conflict of interest under the Fourth Circuit EDR Plan that are fundamentally unfair to Ms. Strickland and that do not exist under the Model Employment Dispute Resolution (EDR) Plan (Sept. 2018) (the “Model Plan”). *See* Model Plan, Ch. X, § 10.B.2.c.

Based on the language and principles of the EDR Plan, disqualification of Mr. Martinez is warranted based on Ms. Strickland’s documented allegations against him and his conflict of interest. For these reasons, Ms. Strickland respectfully requests that Mr. Martinez be disqualified prior to the end of mediation so that she may continue her attempts to reach a

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resolution of this matter at the lowest procedural level possible and with a party that did not personally violate her protected employment rights.

Respectfully,

A handwritten signature in black ink, appearing to read "Cooper Strickland". The signature is fluid and cursive, with the first name "Cooper" and last name "Strickland" clearly distinguishable.

Cooper Strickland

cc: Mr. James N. Ishida, Circuit Executive, Fourth Circuit Court of Appeals via electronic transmission ([REDACTED] PII [REDACTED]@ca4.uscourts.gov)

Ms. Caryn Devins Strickland via electronic transmission (caryn.devins@hotmail.com)