

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

PAUL DENNIS REID v. STATE OF TENNESSEE

**Criminal Court for Davidson County
No. 97-C-1834**

No. M2003-02687-CCA-R10-PD - Filed November 13, 2003

ORDER

This matter is before the court upon application of Paul Dennis Reid for an extraordinary appeal pursuant to Tenn. R. App. P. 10. Appellant Reid is seeking review of the post-conviction court's decision denying his motion to recuse Judge Cheryl Blackburn for cause. The appellant submits that the post-conviction court denied his motion for recusal without a hearing in violation of his rights guaranteed under Article I, Sections 8, 9, 16 and 17 of the Tennessee Constitution and the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution. The appellant further contends that the court below applied the wrong legal standard in denying his motion for recusal. Appellant concludes that "the court's failure to afford [him] an opportunity to be heard and present evidence in support of his motion and applying the wrong legal standard in denying the motion to recuse 'so far departed from the accepted and usual course of judicial proceedings as to require immediate review.'" The appellant further requests that this court stay the post-conviction proceedings while this matter is pending.

Having reviewed the appellant's application, we find that a response from the State would be both beneficial and appropriate in this matter.

IT IS, THEREFORE, ORDERED that the State shall have fourteen (14) days from the entry of this order in which to file a response to the appellant's Rule 10 application.

IT IS FURTHER ORDERED that in addition to any other response the State may wish to make, the State shall specifically address these issues:

1. In light of State v. Connors, 995 S.W.2d 146 (Tenn. Crim. App. 1998), whether the failure to conduct a hearing on the petitioner-appellant's motion to recuse is a clear abuse of discretion that has so far departed from the accepted and usual course of judicial proceedings so as to require immediate review.

2. If the issue of whether the trial court erred in denying a hearing on the recusal motion should await direct appeal, what is the proper disposition of the case on direct appeal should this court find that denial of a hearing on the motion was an abuse of discretion.

3. Whether the interests of judicial economy and a speedy resolution of the issue regarding the denial of a hearing are or are not better served by judicial intervention at this juncture.

Appellant has requested that this court stay the post-conviction proceedings below. However, the post-conviction relief hearing is not set below until June 14, 2004. Accordingly, the issuance of a stay is not necessary at this time and is DENIED.

JERRY L. SMITH, JUDGE