

SUPREME COURT OF LOUISIANA

Winkle v. Relay Administration Board

91 So. 3d 300 (La. 2012) · Decided June 29, 2012

SUMMARY

The Louisiana Supreme Court held that a judge’s potential financial interest in a class action does not require recusal under La. Code Civ. P. art. 151(A)(4) absent evidence that the interest would prevent fair and impartial proceedings. Because the judge’s potential interest amounted to approximately \$13 in telephone charges over ten years, the court reversed the recusal order and remanded the case to the division to which it was originally allotted.

CASE DETAILS

COURT	Supreme Court of Louisiana
JURISDICTION	Louisiana
DECIDED	June 29, 2012
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendants sought supervisory review of an order recusing the remaining civil docket judge in a class action. The court of appeal denied review, with one judge dissenting, and the defendants sought relief from the Supreme Court of Louisiana.
STANDARD OF REVIEW	The Supreme Court exercised supervisory and administrative authority to review the recusal ruling.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Defendants v. Plaintiffs

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether La. Code Civ. P. art. 151(A)(4) requires recusal merely because a judge has an interest in the cause or its outcome.

2. Whether a judge's potential interest consisting of approximately \$13 in telephone charges, without evidence that the amount would impair impartiality, mandated recusal.

HOLDINGS

1. A mere finding that a judge is interested in the cause or its outcome does not require recusal under La. Code Civ. P. art. 151(A)(4); the interest must be substantial enough that the judge would be unable to conduct fair and impartial proceedings.
2. Recusal was not mandated because the judge's potential interest was minimal and there was no evidence that the amount would affect her ability to conduct fair and impartial proceedings.

KEY QUOTATIONS

“a mere finding that the judge is interested in the cause or its outcome is not sufficient to require the judge’s recusal; rather, there must be a finding the judge is interested to such an extent that he would be unable to conduct fair and impartial proceedings.” (91 So. 3d at 301)

“Accordingly, the writ is granted. The judgment granting recusal is reversed and set aside, and the case is hereby remanded for further proceedings to Division E of the 19th Judicial District Court for the Parish of East Baton Rouge.” (91 So. 3d at 302)

FACTUAL BACKGROUND

Plaintiffs filed a proposed class action seeking refunds of an \$0.11 monthly telephone-bill fee and defined the class to include Louisiana residents and businesses who paid the charge between November 1, 1992, and April 1, 2002. The originally assigned judge and five other civil docket judges recused themselves after plaintiffs filed recusal motions, leaving Judge Janice Clark as the only remaining civil docket judge. The ad hoc judge ordered Judge Clark recused because she was potentially a class member, although the evidence showed that her potential interest amounted to approximately \$13 in telephone charges over ten years.

PROCEDURAL HISTORY

Plaintiffs filed a class action in the 19th Judicial District Court for East Baton Rouge Parish concerning a telephone-bill fee. After multiple judges recused themselves, an ad hoc judge ordered Judge Janice Clark recused under La. Code Civ. P. art. 151(A)(4). The court of appeal denied defendants' supervisory application. The Louisiana Supreme Court granted the writ, reversed and set aside the recusal judgment, and remanded the case to Division E.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was ordered returned to Division E, the division to which it was originally randomly allotted, for further proceedings in the 19th Judicial District Court for the Parish of East Baton Rouge.

CASES CITED

- Smith v. Bayer Corp., 131 S. Ct. 2368, 180 L. Ed. 2d 341 (2011)
- In re: Cooks, 96-1447 (La. 5/20/97), 694 So. 2d 892

OPINION

PER CURIAM.

PER CURIAM. | plaintiffs filed the instant class action in the 19th Judicial District Court for the Parish of East Baton Rouge against defendants, seeking a refund of an \$.11 per month fee on telephone bills. The proposed class was defined as “[a]ll Louisiana residents and businesses who paid one or more \$1.11 telephone access line tax charges on their monthly phone bills, at any time between November 1, 1992, and April 1, 2002.” The case was randomly allotted to Division E, presided over by Judge William Morvant.

Upon plaintiffs’ motion, Judge Morvant recused himself, finding he was a potential class member. Plaintiffs filed separate and similar motions to recuse five of the remaining civil docket judges in the 19th JDC to whom the case was subsequently reallocated. Each of the judges recused themselves. Thereafter, the case was reallocated to Judge Janice Clark, the only remaining civil docket judge in the 19th JDC.

Although plaintiffs declined to seek Judge Clark’s recusal, defendants filed a motion to recuse her. Plaintiffs opposed the motion, explaining that the recent case of *Smith v. Bayer Corp.*, — U.S. —, 131 S.Ct. 2368, 180 L.Ed.2d 341 (2011) changed their position, and “called into question the basis for the prior recusals.” The motion to recuse was referred to an ad hoc judge for hearing.

The ad hoc judge ordered Judge Clark’s recusal, reasoning that she was interested in the cause or its outcome for purposes of La.Code Civ. P. art. 151(A)(4). Defendants sought supervisory review, which the court of appeal denied, with one judge dissenting. Defendants now seek relief in this court. La.Code Civ. P. art. 151(A)(4) provides a judge shall be recused when the judge is “interested in the cause or its outcome... to such an extent that he would be unable to conduct fair and impartial proceedings” [emphasis added].

Applying this language, it is clear a mere finding that the judge is interested in the cause or its outcome is not sufficient to require the judge’s recusal; rather, there must be a finding the judge is interested to such an extent that he would be unable to conduct fair and impartial proceedings. Such an interpretation is consistent with the well-established jurisprudence of this court.

See *In re: Cooks*, 96-1447 (La.5/20/97), 694 So.2d 892 (“the tantamount duty of a judge is to conduct fair and impartial proceedings”). In the instant case, the evidence developed at the recusal hearing indicates Judge Clark’s potential interest in this case amounts to \$13 in telephone charges over a period of ten years.

In the absence of any evidence indicating the minimal amount at issue would affect a judge's ability to be fair and impartial, recusal is not mandated under La.Code Civ. P. art. 151(A)(4). In their application, plaintiffs acknowledge their earlier motions to recuse were based on erroneous legal grounds. Therefore, acting pursuant to our supervisory and administrative authority under La. Const.

Art. V, § 5, we order this case returned to Division E, the division to which it was originally randomly allotted. Accordingly, the writ is granted. The judgment granting recusal is reversed and set aside, and the case is hereby remanded for further proceedings to Division E of the 19th Judicial District Court for the Parish of East Baton Rouge.