VERMONT SUPREME COURT
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Case No. 24-AP-220

Note: In the case title, an asterisk (*) indicates an appellant and a double asterisk (**) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

MARCH TERM, 2025

Jennifer Parmelee* v. Sandra Vega Russo	}	APPEALED FROM:
	}	Superior Court, Addison Unit,
	}	Family Division
	}	CASE NO. 24-FA-02083
		Trial Judge: David R. Fenster

In the above-entitled cause, the Clerk will enter:

Plaintiff appeals pro se from the trial court's denial of her request for a relief-from-abuse (RFA) order against defendant. We affirm.

Plaintiff filed this action against defendant in July 2024. Defendant is the new partner of plaintiff's ex-boyfriend, Mr. Varkoutas, who is also the father of plaintiff's child. Plaintiff also filed a RFA complaint against Mr. Varkoutas and sought an order against stalking against defendant. The court held one hearing on all of the complaints. Prior to the final hearing, plaintiff moved to disqualify counsel for defendant based on an alleged conflict of interest. Before this motion was heard, an assistant judge disclosed on the record that her son worked for defense counsel's firm. The parties considered this information outside the presence of the trial court and, when court resumed, no party objected to having the assistant judge continue on the case.

The court considered plaintiff's motion to disqualify defense counsel at the hearing and denied it. The court looked to the professional conduct rules for guidance and found that plaintiff failed to identify any grounds for disqualification. It explained that plaintiff referenced interactions with counsel's firm that occurred several years earlier and involved matters that were not substantially related to this case. Cf. V.R.Pr.C. 1.9(a) (stating that "lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the

interests of the former client unless the former client consents after consultation"). Even if plaintiff knew other lawyers in the firm, moreover, she did not show any lawyer-client relationship with these individuals that would implicate the professional conduct rules.

On the merits, the court found that plaintiff failed to show that she was entitled to relief as defendant was not a "household member" as defined by statute. See 15 V.S.A. § 1101(3). This appeal followed.

Plaintiff filed one brief that relates to her three separate appeals. She does not appear to directly challenge the court's decision as to the RFA order with respect to defendant. The court's decision is supported by the evidence, and there is no basis to disturb it. By statute, only family or household members can seek a RFA order. See id. § 1103(a). The term " '[h]ousehold members' means persons who, for any period of time, are living or have lived together, are sharing or have shared occupancy of a dwelling, are engaged in or have engaged in a sexual relationship, or minors or adults who are dating or who have dated." Id. § 1101(3). Defendant plainly does not satisfy that requirement with respect to plaintiff and plaintiff does not appear to argue otherwise.

Plaintiff reiterates her assertion that defendant's counsel had a conflict of interest because plaintiff had an "extended history" with counsel's firm. We reject this argument. "Disqualification of counsel is a drastic measure, and the moving party bears the burden of supporting a motion to disqualify." In re Watts, 2024 VT 48, ¶ 26 (quotation omitted). "A motion to disqualify counsel is a matter that rests within the sound discretion of the trial court, and its ruling will not be disturbed absent an abuse of discretion." Stowell v. Bennett, 169 Vt. 630, 631 (1999) (mem.). The court articulated reasonable grounds for its decision. While plaintiff disagrees with the court's conclusion, she fails to demonstrate any abuse of discretion. See, e.g., Meyncke v. Meyncke, 2009 VT 84, ¶ 15, 186 Vt. 571 (explaining that arguments which amount to nothing more than disagreement with court's reasoning and conclusion do not demonstrate abuse of discretion).

Plaintiff also argues that the assistant judge had a conflict of interest because the judge's son worked at defense counsel's firm. As set forth above, the assistant judge disclosed this information to the parties on the record and the trial judge appropriately recessed to allow the parties to consider how to proceed. See Vermont Code of Jud. Conduct, Rule 2.11(C) (explaining that "judge subject to disqualification under this Rule . . . may disclose on the record the basis of the judge's disqualification and may advise the parties and their lawyers to consider, outside the presence of the judge and court personnel, whether to waive disqualification"). Plaintiff agreed on the record that she had no objection to the judge remaining on the case. See id. (explaining that "if, following the [judge's] disclosure, the parties and lawyers agree, without participation by the judge or court personnel, that the judge should not be disqualified, the judge may participate in the proceeding"). Given her agreement below, plaintiff cannot now raise this argument on appeal. See State v. Morse, 2019 VT 58, ¶ 7, 211 Vt. 130 (explaining that party who invites "error waives or intentionally relinquishes their right to challenge it on appeal" (quotation omitted)).

We have considered all arguments discernable in plaintiff's brief and relevant to this appeal and conclude they are all without merit.

Affirmed.

BY THE COURT:

Harold E. Eaton, Jr., Associate Justice

William D. Cohen, Associate Justice

Nancy J. Waples, Associate Justice