

R.J. "BOB" JONES EXCAVATING CONTR., INC. *v.*
FIREMEN'S INS. CO.

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Cite as 325 Ark. 42 (1996)

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R.J. "BOB" JONES EXCAVATING CONTRACTOR, INC. *v.*
FIREMEN'S INSURANCE COMPANY of Newark, New
Jersey

95-1318

922 S.W.2d 723

Supreme Court of Arkansas
Opinion delivered June 10, 1996

1. JUDGES — MOTION REQUESTING DISQUALIFICATION — REQUIREMENTS. — Rule 6-4 of the Rules of the Supreme Court and Court of Appeals of the State of Arkansas requires that a motion to disqualify be filed a reasonable time prior to the submission of the case to the appellate court.
2. JUDGES — MOTION REQUESTING DISQUALIFICATION — ARK. SUP. CT. R. 6-4 NOT CONTROLLING — PARTY SHOULD NOT DELAY FILING UNTIL HE RECEIVES UNFAVORABLE RULING. — Where appellant's motion was for disqualification from the rehearing only, Ark. Sup. Ct. R. 6-4 was not controlling; despite the limited scope of the present motion, a party should not delay filing a motion to disqualify until he receives a ruling that is unfavorable to his position.
3. JUDGES — NO CONFLICT OF INTEREST WARRANTING DISQUALIFICATION — MOTION DENIED. — Where the briefs in the case did not reflect a conflict of interest; where the justice whose disqualification was sought found nothing in the briefs that would cause him to believe

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that the law firm where his wife was employed had any interest in the case; where the justice reached an independent decision on the merits of this case based upon the facts and law contained in the briefs presented by the parties to the appeal; and where the justice never had any interest in the disposition of the appeal other than concluding it in the highest degree of professional competence possible, appellant's motion requesting disqualification was denied.

Appellant's Motion Requesting Disqualification; denied.

Stanley D. Rauls, for appellant.

No response.

DONALD L. CORBIN, Justice. Mr. Stanley D. Rauls, attorney for the appellant, R.J. "Bob" Jones Excavating Contractors, Inc., filed a motion requesting the disqualification of Associate Justice Donald L. Corbin from appellant's petition for rehearing. The motion for disqualification was filed *subsequent* to this court issuing a unanimous decision that was adverse to his client's interest.¹

[1, 2] Rule 6-4 of the Rules of the Supreme Court and Court of Appeals of the State of Arkansas requires that a motion to disqualify "shall be filed a reasonable time prior to the submission of the case to the Court." It is questionable whether the present motion to disqualify was timely filed since it accompanied the petition for rehearing, the latter of which, by definition, is filed after a case has been submitted and decided. However, Rule 6-4 is not controlling given that the present motion is for disqualification from the *rehearing only*. Despite the limited scope of the present motion, a party should not delay filing a motion to disqualify until he receives a ruling that is unfavorable to his position.

[3] The briefs in the instant case did not reflect a conflict of interest, nor was there anything in the briefs that would cause this justice to believe that the law firm where his wife is employed had any interest in the case under submission. I reached my independent decision on the merits of this case based upon the facts and law contained in the briefs presented by the parties to this appeal. I have never had any interest in the disposition of this appeal other than concluding it in the highest degree of professional competence

¹ Reporter's note: See R.J. "Bob" Jones Excavating Contr., Inc. v. Firemen's Ins. Co., 324 Ark. 282, 920 S.W.2d 483 (1996).

possible.

Motion denied.

DUDLEY, J., not participating.
