

IN THE SUPREME COURT, STATE OF WYOMING

OCTOBER TERM, A.D. 1974

IN THE MATTER OF WYOMING )  
 )  
RULES OF CRIMINAL PROCEDURE )

IN THE SUPREME COURT  
STATE OF WYOMING  
FILED

FEB 12 1975

RITA M. WHITE

*M. J. Coover*  
DEPUTY

O R D E R

It is ordered that Rule 23(d), W.R.Cr.P., be amended to read as follows:

(d) The State or the defendant may peremptorily disqualify a district judge by filing a motion for change of judge. Such motion shall be filed at least fifteen days before the date set for the hearing on any motion filed pursuant to Rule 16, W.R.Cr.P., or if there be no such motion hearing set, at least fifteen days before the date set for pretrial, and if there be no pretrial set, then at least fifteen days before the date set for trial, or if the date is set within fifteen days after the order of setting, within five days after receipt of such order; provided, however, that no more than one such motion shall be filed by the State or by any defendant. After the filing of such motion for change of judge, the presiding judge shall immediately call in another district judge to try the action.

and that the following shall be added to said rule as an additional subparagraph:

(e) Disqualification for Cause. After the time for filing a motion for peremptory disqualification of the presiding judge has expired, the State or the defendant may move for a change of district judge on the ground that the presiding judge is biased or prejudiced against the State, the prosecuting attorney, the defendant or his attorney. The motion shall be supported by an affidavit or affidavits of any person or persons stating sufficient facts to show the existence of such ground, together with an affidavit of the prosecuting or defense attorney showing that the facts stated were unknown to him and could not have been discovered by the exercise of reasonable diligence prior to expiration of the time for filing a motion for peremptory disqualification. Prior to a hearing on the motion any party may file counter-affidavits. The presiding judge shall rule on the motion, and if he grants the same shall immediately call in another district judge to try the action. A ruling on a motion for a change of district judge shall not be an appealable order, but the ruling shall be entered on the docket and made a part of the record, and may be assigned as error in an appeal of the case.

It is further ordered that this order be published in the Wyoming Reporter and that this amendment shall become effective ninety days after publication in the Pacific Reporter, Second Series, Advance Sheets.

Dated at Cheyenne, Wyoming, this 11th day of February, 1975.

BY THE COURT:

A handwritten signature in cursive script, reading "Rodney M. Guthrie".

RODNEY M. GUTHRIE  
Chief Justice