

TYBOIA BROWN,

Appellant

v.

SOMERSET COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR 20-08

ORDER

This Order concerns a request from Tyboia Brown, (“Appellant”), to have the State Board President, Brigadier General Warner I. Sumpter, recuse himself from participating in any aspect of her request for reconsideration of the State Board’s decision in *Tyboia Brown v. Somerset County Board of Education*, MSBE Order No. OR 20-03.¹ In that Order, issued on January 28, 2020, the State Board dismissed the Appellant’s appeal for untimeliness.

The appeal for which the Appellant seeks reconsideration concerned a September 17, 2019 decision of the Somerset County Board of Education (“local board”), upholding the August 27, 2018 decision of Superintendent John B. Gaddis. Dr. Gaddis found that the Appellant had not been subjected to discrimination, retaliation or a hostile work environment while working for the school system as a temporary emergency basketball coach. The Appellant appealed that decision to the State Board and the State Board dismissed the appeal for untimeliness. *Id.*

In support of her motion for recusal, Appellant states that General Sumpter was Chairman of the local board “within [the] past few years, and has at some point, where my complaint has traversed through many different levels and processes, before getting to the state board made decisions concerning it.” (Motion). We understand this to mean that Appellant believes General Sumpter made decisions regarding her appeal to the local board while he was a member of that board. *Id.* She maintains, therefore, that his participation in her case could be construed as a conflict of interest or lack of partiality. *Id.*

For guidance on recusal matters, the State Board has previously looked to Maryland case law that applies the appearance of impropriety standard for the recusal of judges to members of Maryland administrative agencies performing quasi-judicial functions. *See Norman L. Nichols v. Caroline County Bd. of Educ.*, MSBE Op. No. 02-11 (2002), citing *Regan v. State Bd. of Chiropractic Exam’rs*, 355 Md. 397, 410 (1999)(Whether a reasonable person knowing and understanding all of the relevant facts would recuse the judge.). There is a presumption of impartiality and “the party requesting recusal must prove that the [decision maker] has a ‘personal bias or prejudice’ concerning him or ‘personal knowledge of disputed evidentiary facts concerning the proceedings.’”). *Jefferson-El v. State*, 330 Md. 99, 107 (1993). Thus, “bald allegations” of bias and impartiality are “not sufficient to overcome the presumption of

¹ We address Appellant’s request for reconsideration under a separate order.

impartiality.” *See Reed v. Baltimore Life Ins. Co.*, 127 Md. App. 536, 556 (1999). This is a heavy burden for the person seeking recusal. *See Karanikas v. Cartwright*, 209 Md. App. 571, 579 (2013).

The Appellant has not met the burden for recusal here. The underlying appeal concerns Dr. Gaddis’ August 27, 2018 decision. General Sumpter resigned from the local board many months before that, on May 15, 2018, in order to accept his appointment to the State Board. Thus, General Sumpter did not participate in the local board’s review of Appellant’s case that resulted in its September 17, 2019 decision. The mere fact the General Sumpter is a former member of the local board is not an adequate basis for recusal. Appellant has not provided sufficient proof to overcome the presumption of impartiality.

Because the Appellant has failed to demonstrate an adequate basis for General Sumpter to recuse himself from participation in Appellant’s request for reconsideration, it is this 28th day of April, 2020, ORDERED, by the Maryland State Board of Education, that the motion for recusal is denied.

MARYLAND STATE BOARD OF EDUCATION

Signature on File:

Jean C. Halle
Vice President