

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE MINNESOTA BOARD OF VETERINARY MEDICINE

In the Matter of Mohammed  
Shahidullah, D.V.M.,  
License No. 7978

**ORDER**

An Affidavit of Prejudice was filed by the Licensee in the above matter on May 31, 1996, which seeks removal of the presiding Administrative Law Judge. The Complaint Review Committee responded on June 4, 1996.

Mohammed Shahidullah, D.V.M., 1132 Central Avenue West, St. Paul, Minnesota 55104, represents himself in this proceeding. Ann Offerman, Assistant Attorney General, 525 Park Street, Suite 500, St. Paul, Minnesota 55103-2106, represents the Complaint Review Committee of the Board of Veterinary Medicine.

Based upon the filings by the parties and for the reasons set out in the Memorandum which follows:

IT IS HEREBY ORDERED: That the Affidavit of Prejudice is DENIED.

Dated this 7th day of June, 1996.

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KEVIN E. JOHNSON  
Chief Administrative Law Judge

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**MEMORANDUM**

In his Affidavit of Prejudice, Mr. Shahidullah states that after participating in a telephone conference with Administrative Law Judge Janice Frankman, he has a firm belief that Judge Frankman cannot be impartial in presiding over this case. Although he states that Judge Frankman made prejudicial statements during the conference, none are cited in the affidavit. Mr. Shahidullah was advised of this omission by letter dated June 3, 1996, but has made no further filing. Ms. Offerman has stated that she was unaware of any prejudicial comments made during the telephone conference.

Affidavits of Prejudice are considered under Minn. Rule pt. 1400.6400 which provides that:

Upon filing in good faith by a party of an Affidavit of Prejudice, the Chief Judge shall determine the matter as a part of the record provided the affidavit shall be filed no later than five days prior to the date set for hearing.

An ALJ cannot be automatically disqualified by the filing of an Affidavit of Prejudice. However, a party is entitled to an impartial tribunal.

The burden of establishing bias or other disqualifying interests rests on the party challenging the Judge. *Schweiker v. McClure*, 456 U.S. 188, 196 (1982). In this case, facts have not been presented by affidavit to show any bias. *Long Beach Fed. Sav. & Loan Ass'n v. Federal Home Loan Bank Bd.*, 189 F.Supp. 589, 609-12 (S.D. Cal. 1960) rev'd on other grounds, 295 F.2d 403 (9th Cir. 1961). The alleged prejudice appears to be mere speculation. *Duke v. North Texas State Univ.*, 469 F.2d 829, 834 (5th Cir. 1972), *cert. denied*, 412 U.S. 932 (1973).

Accordingly, the affidavit must be denied since prejudice has not been demonstrated.

G.A.B.