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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1158-20

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

AMY LOCANE, a/k/a
AMY BOVENIZER, and
AMY LOCANE-BOVENIZER,

Defendant-Appellant.

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Submitted February 10, 2022 – Decided May 3, 2022

Before Judges Mawla, Mitterhoff and Alvarez.

On appeal from the Superior Court of New Jersey, Law Division, Somerset County, Indictment No. 10-12-0770.

Wronko Loewen Benucci, attorneys for appellant (James R. Wronko, of counsel and on the briefs).

Michael H. Robertson, Somerset County Prosecutor, attorney for respondent (Matthew Murphy, Assistant Prosecutor, on the brief).

PER CURIAM

On September 17, 2020, a Law Division judge resentenced defendant Amy Locane for the fourth time after a jury convicted her of the lesser-included offense of vehicular homicide, N.J.S.A. 2C:11-5(a), and third-degree assault by auto, N.J.S.A. 2C:12-1(c)(2).[1] The judge imposed eight years subject to the No Early Release Act (NERA), N.J.S.A. 2C:43-7.2, on the vehicular homicide conviction, and a concurrent eighteen-month sentence on the assault by auto offense. The underlying incident occurred on June 27, 2010. The procedural history and facts are set forth in the following: State v. Locane, No. A-2728-12 (App. Div. July 22, 2016); State v. Locane (Locane II), 454 N.J. Super. 98 (App. Div.) certif. denied, 235 N.J. 448, 457 (2018); State v. Locane, No. A-2828-18 (App. Div. July 22, 2020), certif. denied, 244 N.J. 345 (2020). Defendant appeals, and we affirm.

After the 2020 resentence, defendant moved to set it aside, arguing that her attorney's firm had recently represented the judge's niece in an unrelated motor vehicle case. Defendant unsuccessfully argued that the judge's involvement had the appearance of impropriety. The appeal is also from that decision.

[1] During her second resentence, the judge lowered the degree of the offense to fourth degree.

During the 2020 sentencing hearing, defendant presented numerous letters attesting to her years of sobriety. She also claimed reincarceration would harm her children physically and emotionally, and that her own health would suffer because she had recently developed microscopic colitis.

During the sentencing hearing, Judge Angela Borkowski observed that the most important sentencing consideration is the severity of the crime. She found aggravating factors one, N.J.S.A. 2C:44-1(a)(1), the nature and circumstances of the offense; two, N.J.S.A. 2C:44-1(a)(2), the gravity and seriousness of the harm to the victim, including whether defendant knew or should have known that the victim was particularly vulnerable for any reason; three, N.J.S.A. 2C:44-1(a)(3), the risk of reoffense; and nine, N.J.S.A. 2C:44-1(a)(9), the need for deterrence. She also found mitigating factors seven, N.J.S.A. 2C:44-1(b)(7), defendant's lack of criminal history; and eleven, N.J.S.A. 2C:44-1(b)(11), the hardship her imprisonment will inflict on her children.

Before weighing specific factors, Judge Borkowski noted defendant's brief urged the judge to find mitigating factor two (defendant did not contemplate that her conduct would harm others), N.J.S.A. 2C:44-1(b)(2), because she had believed her husband would drive her home from the party and thus had not contemplated that her drinking would harm anyone. The judge

found this argument unworthy of consideration, explaining that defendant was "fully aware that [she was] drinking to the point that [she] should not have driven [but] made that decision anyway." The judge continued: "No one else is to blame for what happened that night to the [victims] but you. Until you recognize that you alone by your actions, beginning with the decision to drive after drinking, are responsible, you are at risk to commit another offense."

Judge Borkowski emphasized that defendant not only chose to drive while very intoxicated, but continued her dangerous driving even after rear-ending another car. That driver and other witnesses pleaded with defendant to stop driving; she ignored those pleas. She sped off, passed cars in a no-pass zone, knocked down a mailbox, ran a red light, and tailgated another driver—all after the first accident and before crashing into Fred and Helene Seeman's car.

Judge Borkowski observed that defendant continued to blame another driver for tailgating her, and Fred Seeman for turning too slowly into his driveway: "you fail[] to recognize that if you had not gotten behind the wheel . . . the incident would never have happened." Indeed, defendant's "getting behind the wheel . . . after consuming [so] much alcohol . . . was almost certain to cause harm to another." As a result, defendant's reckless conduct exceeded "that which would form the basis of the [reckless] element of the offense."

Further, her "excessive" drinking caused an "extremely reckless endangering [of] others[.]" Therefore, the facts supported aggravating factor one, which the judge afforded "great weight."

Judge Borkowski found aggravating factor two applied to the assault by auto conviction because the harm Fred suffered "was so much greater than [] necessary to satisfy the elements of the offense." The judge weighed this factor "heavily." She recognized that defendant had fully served the sentence for that conviction, but engaged in the analysis anyway for the sake of completion.

The judge attributed "some weight" to aggravating factor three, acknowledging defendant's rehabilitative efforts and lack of "significant prior record[,]" while noting that defendant continued to blame others for the crime. The judge further observed that defendant's conditional discharge for marijuana possession occurred nine years before this crime, but had not deterred defendant from driving drunk. Moreover, according to the presentence report, defendant increased her drinking after a difficult pregnancy, potentially demonstrating a dependence on substances when dealing with difficult times. Defendant's extreme level of intoxication "bespeak[s] of an individual who had been ingesting at that level for some time."

The foregoing facts also supported a need to deter both defendant and others from driving drunk. Judge Borkowski therefore afforded factor nine "great weight."

The judge found mitigating factor seven but gave it "no great weight." Defendant had been offense-free since 2010 but had been "under the scrutiny of the legal system" the entire time.

The judge declined to apply mitigating factors eight, N.J.S.A. 2C:44-1(b)(8), (defendant's conduct was the result of circumstances unlikely to recur) and nine, N.J.S.A. 2C:44-1(b)(9), (defendant's character and attitude indicate she is unlikely to reoffend), noting that we had already explained in a prior appeal why the record supported neither factor. Additionally, defendant's continued efforts to blame others without accepting full responsibility for her conduct supported the finding that aggravating factor three excluded mitigating factors eight and nine.

Judge Borkowski found mitigating factor eleven (hardship to defendant and dependents). She noted, however, that defendant's children may suffer less than other children with incarcerated parents because defendant's children have a strong support system, including family and various professionals. With respect to defendant's medical hardship, the judge observed that medical

treatment is available at correctional facilities. Therefore, she gave factor eleven slight weight.

On balance, Judge Borkowski found that the aggravating factors substantially outweighed the mitigating factors. For this reason, she said "a period of incarceration above the presumptive term is warranted . . . ."

On appeal, defendant now claims:

> <u>POINT I</u>
>
> THE TRIAL COURT ERRED BY DENYING [DEFENDANT'S] MOTION TO VACATE THE SENTENCING AS THE TRIAL [JUDGE] SHOULD HAVE RECUSED HERSELF ON HER OWN MOTION.
>
> <u>POINT II</u>
>
> THE TRIAL COURT ERRED BY USING A PRESUMPTIVE SENTENCE ANALYSIS CONTRARY TO <u>STATE V. NATALE</u>.[2]
>
> <u>POINT III</u>
>
> [DEFENDANT'S] SENTENCE WAS MANIFESTLY EXCESSIVE, BECAUSE THE TRIAL COURT ERRED IN ITS FINDING AND WEIGHING OF AGGRAVATING AND MITIGATING FACTORS AND DID NOT PROPERLY CONSIDER [DEFENDANT'S] STELLAR REHABILITATION FOLLOWING THE 2010 ACCIDENT AND THE IMPOSITION OF THE FIRST SENTENCE IN 2013.

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[2] 184 N.J. 458 (2005).

A. General Sentencing Law and The Law Governing Re-Sentencing.

B. The Trial Court Did Not Properly Find and Weigh Aggravating and Mitigating [Factors] In Imposing Sentence.

C. The Trial Court Unlawfully Failed to Properly Consider [Defendant's] Character and Rehabilitation De Novo at The Time of Re-Sentencing.

D. Consideration of Illegal Aggravating Factor.

POINT IV

THE TRIAL COURT ERRED BY RE-SENTENCING DEFENDANT ON COUNT TWO, AND THE SENTENCE MUST BE VACATED BY THIS COURT.

We address defendant's claims on the merits despite her arguably late filing of this appeal. Although the State did not file a cross-motion for dismissal, it contends the appeal should be dismissed because defendant's motion to vacate the sentence based on the purported appearance of impropriety did not toll the forty-five-day time limit for the filing of an appeal set forth in Rule 2:4-1(a)(2). Although technically correct, by seeking to vacate the sentence and be sentenced by another judge for a fifth time, defendant was essentially requesting a rehearing. See R. 2:4-3(c) (providing that the period for filing an appeal shall

be tolled by the timely filing of a post-verdict motion for a rehearing). Upon the denial of her application, she promptly filed a notice of appeal.

I.

Our sentencing laws are premised on three principles: (1) sentences should be based on "structured discretion designed to foster less arbitrary and more equal sentences"; (2) punishment should fit the crime, not the criminal; and (3) sentences should be subject to meaningful appellate review to promote uniformity. State v. Roth, 95 N.J. 334, 345-49, 361 (1984).

A sentencing court has discretion to set a term within the range for the crime based on a qualitative weighing of the statutory aggravating and mitigating factors. State v. Case, 220 N.J. 49, 65 (2014); State v. Sainz, 107 N.J. 283, 288 (1987). Those factors account for the defendant's personal characteristics and the circumstances of the crime, thus ensuring an individualized assessment while maintaining uniformity and predictability in sentencing. Case, 220 N.J. at 63. The process preserves "the Legislature's intention to focus on the degree of the crime itself as opposed to other factors personal to the defendant." State v. Hodge, 95 N.J. 369, 377 (1984). Accord State v. Jaffe, 220 N.J. 114, 116 (2014); Sainz, 107 N.J. at 288.

The Code instructs that the sentencing court "shall" consider the aggravating factors listed in N.J.S.A. 2C:44-1(a) and "may" consider the mitigating factors listed in N.J.S.A. 2C:44-1(b). "The factors are not interchangeable on a one-to-one basis. The proper weight to be given to each is a function of its gravity in relation to the severity of the offense." Roth, 95 N.J. at 368. A court may not disregard a factor amply supported by the record, but retains discretion in determining how to weigh the factor. State v. Dalziel, 182 N.J. 494, 504-05 (2005).

In considering the factors, "a defendant should be assessed as he stands before the court on the day of sentencing[.]" Jaffe, 220 N.J. at 116. In the context of a remand, unless a reviewing court has specifically limited the resentencing procedure, the sentencing court must consider the defendant's post-offense and post-sentence conduct. State v. Randolph, 210 N.J. 330, 354 (2012) (explaining that the reviewing court may limit the resentencing proceeding and direct "the judge to view the particular sentencing issue from the vantage point of the original sentencing"). "The State, likewise, is not limited in its presentation. The only restriction placed on both parties is that the evidence presented be competent and relevant." Case, 220 N.J. at 70. We affirm a

sentencing court's findings on the factors where supported by credible evidence in the record. State v. Kromphold, 162 N.J. 345, 355 (2000).

The Supreme Court eliminated presumptive terms years ago because a jury verdict authorizes any term within the range for the degree of a crime. Natale, 184 N.J. at 487. The Court explained:

> Although judges will continue to balance the aggravating and mitigating factors, they will no longer be required to do so from the fixed point of a statutory presumptive. We suspect that many, if not most, judges will pick the middle of the sentencing range as a logical starting point for the balancing process and decide that if the aggravating and mitigating factors are in equipoise, the midpoint will be an appropriate sentence . . . . Although no inflexible rule applies, reason suggests that when the mitigating factors preponderate, sentences will tend toward the lower end of the range, and when the aggravating factors preponderate, sentences will tend toward the higher end of the range.
>
> [Id. at 488.]

II.

On appeal, defendant contends that Judge Borkowski applied the unconstitutional presumptive term analysis to "ratchet up" the sentence above the presumptive term. The claim is not supported by the record.

The judge merely used the phrase "presumptive term" instead of "middle of the range" when explaining that a sentence above the mid-range was

warranted because the aggravating factors substantially preponderated over the mitigating. The middle of the range is a logical starting point, but naturally the sentence increases when the aggravating factors preponderate. See ibid. The judge's analysis comported with the principles of Natale.

III.

Defendant also contends the judge's analysis of aggravating and mitigating factors did not credit her "stellar rehabilitation" over the past ten years. She argues that the judge ignored the fact she is "an entirely different person than the person who committed the vehicular homicide . . . ."

More specifically, defendant challenges the judge's finding of aggravating factor one. While admitting that she became intoxicated, she denies any intent to harm others and suggests the driver who tailgated her contributed to the accident. She also shifts blame by claiming the accident occurred in her lane of travel. Compared to other drunk drivers convicted of vehicular homicide, she argues her behavior was "clearly less egregious[.]" This blame-shifting began at trial and has persisted throughout defendant's appeals.

Defendant goes on to characterize aggravating factor two as applicable only to the vehicular assault conviction. Further, she challenges factor three in light of her rehabilitation and decade of sobriety. She argues she lacks a criminal

history—despite her 2001 conditional discharge for marijuana possession—and points out that possession of marijuana is now legal in New Jersey.

Defendant believes aggravating factor nine, N.J.S.A. 2C:44-1(a)(9), did not apply, or alternatively, should have been given slight weight because her rehabilitation negates the need for deterrence, and suggests the judge's reliance on the nature of the crime amounts to double-counting. She argues that the judge should have found mitigating factor six, N.J.S.A. 2C:44-1(b)(6), (defendant will participate in community service) based on her volunteer work prior to this sentencing. Defendant further claims that the judge did not accord sufficient weight to mitigating factors seven and eleven, N.J.S.A. 2C:44-1(b)(7) and (11).

The judge found aggravating factor one based on the extent of defendant's drunkenness and her repeated disregard for the safety of others during the driving episode that resulted in the homicide. On appeal, defendant urges us to view factor one based only on the circumstances that existed at the moment she crashed into the Seemans' car. The law does not require, or support, such a narrow view. See Locane II, 454 N.J. Super. at 123-24. Conduct going beyond what is necessary to satisfy the elements of the offense may be considered in relation to aggravating factor one. Ibid.; accord State v. O'Donnell, 117 N.J. 210, 217-18 (1989) (finding aggravating factor one applied in a manslaughter

case where the defendant intentionally inflicted pain and suffering in addition to causing death); State v. Soto, 340 N.J. Super. 47, 71-72 (App. Div. 2001) (finding that factor one applied in an aggravated manslaughter and felony murder case where the defendant brutally and viciously attacked the victim); State v. Henry, 418 N.J. Super. 481, 485, 492-93 (Law Div. 2010) (finding factor one in a drunk driving case based on the defendant's blood alcohol content (BAC) level, which far exceeded the legal limit).

Here, defendant chose to get behind the wheel with a BAC level nearly three times the legal limit. As the judge found, her extreme intoxication practically ensured she would harm another. She could have asked for a ride, called a cab, or simply stayed at her friends' house. But, as she told police, she did not care because her children were not with her. Thus, Judge Borkowski did not abuse her discretion in finding aggravating factor one and in affording it great weight.

Defendant contends that the judge should not have considered aggravating factor two in relation to the vehicular homicide conviction. But nothing in the record suggests that the judge did consider this factor in relation to the vehicular homicide conviction. Rather, Judge Borkowski specifically said that factor two

applied to the assault by auto conviction based on Fred's injuries. Defendant's argument is not supported by the record, and thus lacks merit.

Defendant's challenge to Judge Borkowski's finding of aggravating factors three and nine also lacks merit. As the Court explained in State v. Thomas, a court's findings on the risk of reoffense and the need to deter relate not only to recidivism, "but also involve determinations that go beyond the simple finding of a criminal history and include an evaluation and judgment about the individual in light of his or her history." 188 N.J. 137, 153 (2006) (finding factor three in a drug distribution case based on the excessive amount of drugs the defendant had in his possession for sale); see also State v. Fuentes, 217 N.J. 57, 78-79 (2014) (explaining that "[d]emands for deterrence are strengthened in direct proportion to the gravity and harmfulness of the offense") (citation omitted); State v. Varona, 242 N.J. Super. 474, 491 (App. Div. 1990) (finding aggravating factor three despite lack of prior record).

Judge Borkowski explained that the circumstances of defendant's crime suggested that this was not the first time she drove drunk. Her conditional discharge for marijuana had not deterred her from abusing alcohol and endangering the public in the process. She continued to blame others, which established she had yet to understand that she alone was responsible for her

horrific crime, which in turn supported a finding that she was at risk of reoffending. Throughout the proceedings, defendant fixated primarily on her own suffering, and that of her children as victims of alcoholism. While she has expressed remorse, she has never acknowledged that the gravity of her crime warranted a sentence longer than the first imposed three years.

State v. Towey, 244 N.J. Super. 582 (App. Div. 1990), is instructive. There, the defendant shot and killed her husband while under the influence of drugs and alcohol. Id. at 587. At a resentencing hearing, she argued that she had made substantial strides in her sobriety after the offense, and therefore was not at risk to reoffend. Id. at 588. The risk of recurrence was lessened because of defendant's achievements since the shooting, but predicting the future conduct of those who have a history of drug or alcohol dependency is very difficult. Id. at 593-95. We also noted the need for deterrence did not diminish simply because the defendant finally understood and regretted her behavior. Id. at 595.

In sum, defendant's argument is off point. Her alcoholism did not harm others—her drunk driving did. It is worth reiterating that mitigating factor two does not apply in a drunk driving case. Locane II, 454 N.J. Super. at 127 (citing State v. Bieniek, 200 N.J. 601, 609-10 (2010)) (agreeing mitigating factor two did not apply because driving while intoxicated is not a risk society can bear,

and a defendant's subjective belief that she would not cause harm does not mitigate the jeopardy posed to the public).

On this appeal, defendant contends that mitigating factor six should be found and given great weight. She previously argued that the insurance company payment to the victims supported that position; now she points to her volunteer work. No amount of money can compensate a family for the loss of a loved one. Nor can community service offset the taking of a life, no matter how praiseworthy that service may be. In any event, community service is not a punishment available for second-degree vehicular homicide, which carries a prison term between five and ten years. Thus, the judge did not abuse her discretion in finding that defendant's community service did not support factor six. The judge did not abuse her discretion in rejecting mitigating factors eight and nine based on defendant's continued failure to take full responsibility for her conduct, and her continued focus on the suffering she and her children have experienced, as opposed to the continued suffering the victims' family have and will continue to experience.

The judge properly accorded slight weight to mitigating factors seven and eleven. Defendant has been under the public microscope for the last decade. We have no reason to question defendant's sobriety and her good works since

the homicide, but the reality is that she knew such behavior might help her on a resentence.

Defendant has not established a reason her children would suffer any more than other children with imprisoned parents. See Locane II, 454 N.J. Super. at 130. As far as defendant's newly developed medical condition, the prison facility can provide adequate medical care. Thus, no abuse of discretion occurred when the judge gave slight weight to mitigating factors seven and eleven.

The record does not support defendant's accusation that Judge Borkowski based her sentence on a desire for finality. The judge appropriately weighed the relevant sentencing factors. She simply determined that the aggravating factors substantially outweighed the mitigating. She imposed a sentence befitting the crime, not just the defendant. See Hodge, 95 N.J. at 375. The claim that Judge Borkowski applied an outlawed presumptive term analysis lacks merit. She did not abuse her discretion, and the sentence is not manifestly excessive.

IV.

Defendant contends Judge Borkowski erred in imposing sentence for the fourth-degree assault by auto because defendant fully served her sentence for that crime. With limited exceptions, none of which apply to defendant's fourth

sentencing, "the Double Jeopardy Clauses of the federal and state constitutions prohibit multiple punishments for the same offense, and any increase in sentence after the service of the sentence has begun." Locane II, 454 N.J. Super. at 116 (citing U.S. Const. amend. V; N.J. Const. art. I ¶ 11); accord State v. Schubert, 212 N.J. 295, 311-12 (2012).

Here, Judge Borkowksi reimposed the sentence that defendant previously received and fully served. She recognized that defendant's prior service completely satisfied the sentence, but imposed the sentence as a formality to ensure a complete judgment of conviction. Defendant was not prejudiced in any way by that formulation.

V.

Finally, defendant argues the sentence must be vacated based on the appearance of impropriety. She relies on Rule 1:12-1 and Canon 3, Rule 3.17 of the Code of Judicial Conduct in support of her position.

Rule 1:12-1 instructs, in relevant part:

> The judge of any court shall be disqualified on the court's own motion and shall not sit in any matter, if the judge
>
> (a) is by blood or marriage the second cousin of or is more closely related to any party to the action;

(b) is by blood or marriage the first cousin of or is more closely related to any attorney in the action. This proscription shall extend to the partners, employers, employees or office associates of any such attorney except where the Chief Justice for good cause otherwise permits;

(c) has been attorney of record or counsel in the action;

(d) has given an opinion upon a matter in question in the action;

(e) is interested in the event of the action;

(f) has discussed or negotiated his or her post-retirement employment with any party, attorney or law firm involved in the matter; or

(g) [has] any other reason which might preclude a fair and unbiased hearing and judgment, or which might reasonably lead counsel or the parties to believe so.

[R. 1:12-1.]

In relevant part, Canon 3, Rule 3.17 of the Code of Judicial Conduct provides:

(A) Judges shall hear and decide all assigned matters unless disqualification is required by this rule or other law.

(B) Judges shall disqualify themselves in proceedings in which their impartiality or the appearance of their impartiality might reasonably be questioned, including but not limited to the following:

(1) Personal bias, prejudice or knowledge. Judges shall disqualify themselves if they have a personal bias or prejudice toward a party or a party's lawyer or have personal knowledge of disputed evidentiary facts involved in the proceeding.

. . . .

(3) Personal Relationships. Judges shall disqualify themselves if:

> (a) The judge or the judge's spouse, civil union partner, or domestic partner, or a first cousin or more closely related relative to either of them, or the spouse, civil union partner, or domestic partner of such relative, or to the judge's knowledge, a second cousin or related relative to either of them, as defined below, or the spouse, civil union partner, or domestic partner of such relative is a party to the proceeding or is likely to be called as a witness in the proceeding.
>
> (b) the judge or the judge's spouse, civil union partner, or domestic partner, and a first cousin or more closely related relative to either of them, or the spouse, civil union partner, or domestic partner of such relative is a lawyer for a party.

. . . .

(6) Irrespective of the time periods specified in this rule, judges shall disqualify themselves whenever the nature of the relationship to a party or a lawyer, because of a

> continuing social relationship or otherwise, would give rise to partiality or the appearance of partiality.

These parameters for recusal simply do not apply here. At the November hearing, defendant requested a fifth sentencing, before yet another judge, based on the appearance of impropriety because an attorney at defense counsel's law firm represented the judge's niece in a municipal matter. Defense counsel claimed he learned of the representation in July 2019, forgot about it, and did not inform defendant until after sentencing.

The judge explained on the record that she did not live with her niece, did not know the status of the matter, and had disclosed it to the judiciary and the Administrative Office of the Courts by providing a copy of her niece's traffic tickets on July 3, 2019. She did not know who represented her niece.

Counsel argued that because defendant's sentences got progressively worse even as her rehabilitation improved, a reasonable person could conclude the judge imposed a harsh sentence to avoid the appearance of favoritism. Of course, this argument presumes that a reasonable person would view an eight-year prison term for vehicular homicide under these circumstances as harsh. To the contrary, a reasonable person would more likely conclude that defendant received a just and fair sentence, one which fit the crime.

The judge denied the motion on its lack of merit, even if untimely under Rule 1:12-2. Defense counsel knew of the niece's representation for over a year before the sentence hearing, yet said nothing. The attorney who represented the judge's niece had in fact appeared before this judge in other matters, yet never raised the representation as creating an appearance of impropriety in those cases. The judge's niece was neither a party nor a witness to this case. Nieces are not included in the list of closely related persons who may not appear before a judge as a party or a witness. See Canon 3, R. 3.17(B)(4)(c) of the Code of Judicial Conduct.

The judge reviewed the full record before the sentencing. She presided over a hearing for defendant's pretrial motion to exclude evidence, which spanned several days. Thus, she was fully informed of the facts, and imposed a sentence that in her opinion complied with the code and the law of the case. Defense counsel, for whatever reason, did not earlier raise the issue.

The judge said that the only "evidence" of impropriety was defendant's self-serving certification in which she claimed that, had she known about the representation, she would have requested recusal. That is not evidence of a need to recuse. Recusal was unwarranted under the relevant guidelines.

Affirmed.

I hereby certify that the foregoing is a true copy of the original on file in my office.

CLERK OF THE APPELLATE DIVISION