

Exhibit 19

EARLE R. TURNER CLERK  
CLEVELAND MUNICIPAL COURT

2014 MAR 17 P 2:47

IN THE CLEVELAND MUNICIPAL COURT  
CUYAHOGA COUNTY, OHIO

#8

IN RE:	)	CASE NO.
	)	
Defendants in Criminal Cases	)	JUDGE RONALD ADRINE
Assigned to the Docket of	)	
The Honorable Angela R. Stokes	)	<u>BRIEF IN OPPOSITION TO MOTION TO</u>
	)	<u>TRANSFER CRIMINAL CASES FROM</u>
	)	<u>THE DOCKET OF HON. ANGELA R.</u>
	)	<u>STOKES AND TO STOP THE FURTHER</u>
	)	<u>ASSIGNMENT OF CRIMINAL CASES TO</u>
	)	<u>HER DOCKET</u>

**I. Introduction**

In an unprecedented move, the Public Defender has chosen to circumvent R.C. 2701.031 regarding the disqualification of municipal judges. In support of his Motion to Transfer Criminal Cases from the Docket of Hon. Angela R. Stokes and to Stop the Further Assignment of Criminal Cases to her Docket ("Motion to Transfer"), the Public Defender cites paragraphs in a Complaint filed against The Honorable Angela R. Stokes before the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court, in part arising from a grievance filed by Judge Ronald Adrine.

While citing selected paragraphs of the Complaint, the Public Defender fails to note that the Complaint has been answered and all allegations of misconduct have been denied.

Further, while citing the fact that a Probable Cause Panel allowed for the Formal Complaint to be filed, such finding in no way is a finding of misconduct. While Judge

Stokes is sure that the Public Defender relies upon the legal maxim that an accused is innocent until proven guilty, apparently such maxim does not apply to Judge Stokes in the mind of the Public Defender.

In any event, because Judge Adrine is obviously biased and prejudiced in connection with Judge Stokes, having filed a grievance which, in part, gave rise to the Complaint, as well as the execution of an Affidavit attached to a recent Motion to subject Judge Stokes to a psychiatric examination, which was denied, he should not have ruled on this Motion to Transfer.

Consonant with Judge Adrine's refusal to allow for due process, he has prematurely ruled on the Cuyahoga County Public Defender's Motion to Transfer Cases from the Docket of Hon. Angela R. Stokes and to Stop the Further Assignment of Criminal Cases to her Docket through an Administrative Order No. 2014-007 filed on March 14, 2014, attached as Ex. D. This Motion was filed on March 7, 2014, and pursuant to Civ.R. 6(C) Judge Stokes should have been afforded an opportunity to respond to it at least within seven days of its having been filed. Notwithstanding this premature ruling, finding such Motion moot, Judge Stokes is filing her response, herein, within seven days of the Motion having been filed.

Additionally, because this Motion to Transfer is nothing more than a subterfuge to avoid complying with the mandates of R.C. 2701.031, it should be denied. When a similar request was made to Judge Adrine in October 2013, he correctly pointed out that he did not have jurisdiction to rule on the request, but rather, it had to be brought before the Court of Common Pleas. (See correspondence of Judge Adrine of October 28, 2013, attached hereto as Ex. A.) Each and every Motion to Disqualify Judge Stokes,

which has been brought before the Court of Common Pleas as required by R.C. 2701.031 has been denied.

For all of the reasons stated above and those which follow, Judge Stokes respectfully requests that this Honorable Court deny the Motion to Transfer.

## II. Law and Argument

### A. Judge Adrine Must Voluntarily Disqualify Himself from Ruling on the Instant Motion to Transfer

Judge Adrine brought the initial grievance which, in part, has given rise to the Complaint to which the Public Defender makes reference in the Motion to Transfer. Subsequent to his bringing this grievance and supplying voluminous information to Disciplinary Counsel, Judge Adrine has executed an Affidavit at the request of Special Counsel for Relator, Michael R. Murman, in connection with Relator's Motion for Psychiatric Examination Pursuant To Gov. Bar R. V(7)(C). At the very least, Judge Adrine has interjected himself as a material witness concerning the Stokes disciplinary proceeding.

As such, Judge Adrine should have voluntarily disqualified himself from ruling on the instant Motion, as his impartiality is in question in connection with his personal involvement in this matter involving Judge Stokes. See Judicial Cond. R. 2.11.

### B. R.C. 2701.031 Provides the Exclusive Means by which a Municipal Court Judge Can Be Disqualified

R.C. 2701.031 provides a procedure for the disqualification of a judge of a Municipal Court who "allegedly is interested in a proceeding pending before the judge, allegedly is related to or has a bias or prejudice for or against a party to a proceeding pending before the judge or to a party's counsel, or allegedly otherwise is disqualified to

preside in a proceeding pending before the judge” by the filing of an affidavit of disqualification with the Clerk of the Municipal Court. The Clerk, under the statute, is duty bound to notify the Presiding Judge of the Court of Common Pleas of the fact that such Affidavit has been filed. Thereafter, the Presiding Judge of the Court of Common Pleas rules on the disqualification and issues an entry in the matter.

In the instant situation, the Public Defender is seeking an end around this statute by removing the obligation of particular Assistant Public Defenders from setting forth specific allegations which would warrant the disqualification of Judge Stokes in a particular matter and submission to the Court of Common Pleas for determination. It is well-established that the Presiding Judge of the Court of Common Pleas has the sole authority to pass upon the disqualification of a Municipal Court judge. *Hardy v. Hardy*, 2008-Ohio-1925 (8<sup>th</sup> Dist., Cuyahoga County); *Columbus Checkcashers, Inc. v. Guttermaster, Inc.*, 2013-Ohio-5543 (10<sup>th</sup> Dist., Franklin County); *State v. Jones*, 2008-Ohio-6994 (11<sup>th</sup> Dist., Portage County); *State v. Nichols*, 2008-Ohio-3324 (4<sup>th</sup> Dist., Sciota County).

Indeed, in at least four cases since the aforementioned disciplinary Complaint has been filed against Judge Stokes, Presiding Judges of the Cuyahoga County Court of Common Pleas have denied such requests to disqualify Judge Stokes. See Orders issued in connection with *City of Cleveland v. Frank Petrucci* and *City of Cleveland v. William Baeslack*, two cases in which attorney Hilow sought disqualification of Judge Stokes, since he was mentioned in the Complaint, *City of Cleveland v. Hayes* and *City of Cleveland v. Downing* (collectively attached hereto as Ex. B)

To transfer all criminal cases from Judge Stokes' docket and to stop any further assignment of such criminal cases to her docket on the basis set forth in the Public Defender's Motion is to permit circumventing the requirements imposed under R.C. 2701.031. As such, it is wholly improper to have granted such Motion.

**C. The Allegations of Disciplinary Complaint, in and of Themselves, Do Not Warrant the Remedy Sought by the Public Defender**

While the Public Defender would have this Court exercise its power under Local Rule 1.02 relating to docket and case control, such justification could not be more disingenuous. To be clear, the Public Defender is seeking a preemptive ruling by this Court that Judge Stokes is biased and prejudiced against every single defendant brought before her in which a member of the Public Defender's Office is representing a client. This claim is outrageous and seeks to place the cart before the horse insofar as the allegations of the disciplinary Complaint are only that and have not been proven by clear and convincing evidence and have not proceeded to any sanction against Judge Stokes.

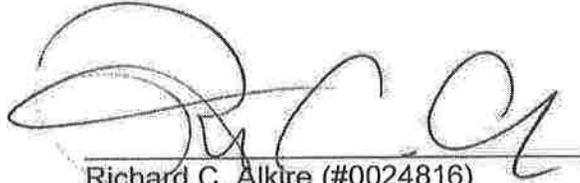
In this regard, at least one of the allegations cited by the Public Defender in connection with Scott Malbasa (see Motion to Transfer, p. 4) has been placed before the Panel assigned to hear Judge Stokes' case. In this connection, the incident involving Scott Malbasa was used as a ground to cause Judge Stokes to subject herself to a psychiatric examination even before the Hearing on the Merits in the disciplinary matter. After the Motion for a Psychiatric Examination was opposed by Judge Stokes, the Panel denied the Motion. (See Ex. C attached hereto)

As such, the claim of the Public Defender is not supported by any evidence properly before this Court.

**III. Conclusion**

Accordingly, for the foregoing reasons, this Honorable Court should have voluntarily disqualified itself from hearing the instant Motion to Transfer, and, since it has prematurely denied it as moot, should now vacate its order and deny the Motion to Transfer since this Court lacks jurisdiction to rule on such Motion as it is nothing more than an attempted end around R.C. 2701.031 which reposes that authority solely to the Presiding Judge of the Court of Common Pleas of Cuyahoga County, Ohio.

Respectfully submitted,



Richard C. Alkire (#0024816)  
Dean Nieding (#0003532)

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6060 Rockside Woods Boulevard  
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[rick@alkirelawyer.com](mailto:rick@alkirelawyer.com)  
[dean@alkirelawyer.com](mailto:dean@alkirelawyer.com)

EXHIBIT A



# Cleveland Municipal Court

JUSTICE CENTER  
1200 ONTARIO STREET  
CLEVELAND, OHIO 44113

RONALD B. ADRINE  
ADMINISTRATIVE AND  
PRESIDING JUDGE

(216) 664-4975  
FAX (216) 664-6737

October 28, 2013

Robert L. Tobik, Esq.  
Cuyahoga County Public Defender  
310 Lakeside Avenue, Suite 200  
Cleveland, Ohio 44113

Dear Mr. Tobik:

I am in receipt of your request that I, 1) reassign all cases involving your office currently pending before the Honorable Angela R. Stokes, and 2) that I refrain from having any new cases involving your office assigned to her docket.

Given the nature of your request, I am concerned that the issues that you raise may more properly be subject to adjudication before the Court of Common Pleas or the Supreme Court of Ohio. Moreover, your request does not place anything officially before the court that I can consider or act upon.

Upon due consideration, therefore, I must decline both requests.

Very truly yours,

Ronald B. Adrine  
Administrative and Presiding Judge

RBA:cmr

cc: Judge Angela R. Stokes ✓

EXHIBIT B

STATE OF OHIO )  
 ) SS:  
CUYAHOGA COUNTY )

IN THE COURT OF COMMON PLEAS

FILED

Cleveland Municipal Court

Case Nos. 2013 TRD 065646 & A 565841

2014 MAR -4 P 2:30

CLERK OF COURTS  
CUYAHOGA COUNTY

HENRY HILOW,

Judge: JOHN J RUSSO

Movant

SD 14 077293

v.

JUDGMENT ENTRY

CLEVELAND MUNICIPAL COURT  
JUDGE ANGELA STOKES,

Respondent.

CLERK

MAR -5 2014

JUDGMENT ENTRY RECEIVED  
FOR JOURNALIZATION  
CENTRAL SCHEDULING

John J. Russo, Judge:

Movant Henry Hilow's Motion for Disqualification Cleveland Municipal Court cases for 2013 TRD 065646 (City of Cleveland v. Frank Petrucci) and A 565841 (City of Cleveland v. William Baeslack) are Denied. "The statutory right to seek disqualification of a judge is an extraordinary remedy. \* \* \* A judge is presumed to follow the law and not to be biased, and the appearance of bias or prejudice must be compelling to overcome these presumptions." *In re Disqualification of George*, 100 Ohio St.3d 1241, 2003-Ohio-5489, 798 N.E.2d 23, ¶ 5.

Further, an affidavit of disqualification must allege with specificity the purported grounds for disqualification, including specific facts that demonstrate judicial bias. *See* R.C. 2701.03(B)(1).

In this affidavit, Movant states he is a named party to a complaint filed against Judge Angela Stokes with the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio. This alone does not indicate any clear or compelling evidence of bias or prejudice against Movant by Judge Stokes. Further, on January 9, 2014, Judge Stokes

indicated her commitment to continue to be fair and impartial in journal entries for both cases. Defendant Petrucci has already pled "no contest" and only has a routine supervision involvement with Judge Stokes' courtroom. Defendant Baseslack's case is still before Judge Stokes, but the Motion for Disqualification fails to put forth any evidence of bias or prejudice that has been displayed by the Court against Movant.

Therefore, Movant Henry Hilow's Motion for Disqualification of Judge Angela Stokes is Denied.

IT IS SO ORDERED.

3/9/14  
Date

  
\_\_\_\_\_  
JOHN J. RUSSO  
Presiding Administrative Judge  
Cuyahoga County Common Pleas Court, Gen. Div.

RECEIVED FOR FILING

MAR 04 2014

CUYAHOGA COUNTY  
CLERK OF COURTS  
By  Deputy

STATE OF OHIO )

IN THE COURT OF COMMON PLEAS

CUYAHOGA COUNTY )

) SS:

Cleveland Municipal Court

2013 AUG 13 10 2: 57

Case No. 13 CRB 17219

City of Cleveland vs. Rowan Hayes

ROWAN HAYES

Judge: NANCYA FUERST

Movant

SD 13 077218

v:

JUDGMENT ENTRY

CLEVELAND MUNICIPAL COURT  
JUDGE ANGELA R. STOKES

Complaint

NANCYA FUERST  
SD 13 077218

Respondent

Nancy A. Fuerst, Judge:

Upon consideration of the Affidavit of Prejudice and/or Disqualification and Motion To Have Administrative Judge Designate Another Judge for Bench Trial, filed on June 26, 2013, against Cleveland Municipal Court Judge Angela R. Stokes, in Case No. 13 CRB 17219, City of Cleveland vs. Rowan Hayes, the Court rules as follows:

Rowan Hayes asserts that in 2008 and in the 1990's, he was removed from the courtroom of Judge Stokes. In reviewing all filings submitted in support of and in opposition to the Affidavit of Prejudice, the Court finds that the record fails to demonstrate bias and prejudice against Rowan Hayes.

Affidavit of Prejudice is not well-taken and the motion for disqualification of Judge Angela R. Stokes is denied.

IT IS SO ORDERED

THE STATE OF OHIO )  
Cuyahoga County ) SS: I, THE CLERK OF THE COURT  
HEREBY CERTIFY THAT THE ABOVE-ENTITLED JUDGMENT AND AFFIDAVIT OF PREJUDICE AND DISQUALIFICATION OF JUDGE ANGELA R. STOKES IS A TRUE AND CORRECT COPY OF THE ORIGINAL TAKEN AND COPIED FROM THE ORIGINAL.

NOW ON FILE IN MY OFFICE  
WITNESS MY HAND AND SEAL OF SAID COURT THIS 13  
DAY OF AUGUST A.D. 2013  
CUYAHOGA COUNTY CLERK OF COURTS

By: [Signature], Deputy

8/13/13  
Date

RECEIVED FOR FILING

AUG 13 2013

[Signature]  
NANCYA FUERST  
Presiding/Administrative Judge  
Cuyahoga County Common Pleas Court, Gen Div

CLERK

AUG 14 2013

JUDGMENT ENTRY RECEIVED  
FOR JOURNALIZATION  
CENTRAL SCHEDULING

CUYAHOGA COUNTY  
CLERK OF COURTS  
By: [Signature] Deputy

Certificate of Service

A copy of the foregoing Judgment Entry has been mailed August 13, 2013 to Rowan Hayes, 2026 West 52<sup>nd</sup> Street, Cleveland, OH 44102 by ordinary mail, hand delivered and faxed to the Cleveland Municipal Court at 216.664.4238, and filed with the Clerk, Cleveland Municipal Court, 1200 Ontario St., Cleveland, OH 44113.

  
\_\_\_\_\_  
NANCY J. FUERST  
Presiding Administrative Judge  
Cuyahoga County Common Pleas Court, Gen Div

THE STATE OF OHIO } I, THE CLERK OF THE COURT  
Cuyahoga County } ss. OF COMMON PLEAS WITHIN  
AND FOR SAID COUNTY,  
HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY  
TAKEN AND COPIED FROM THE ORIGINAL. *J.R. [Signature]*  
*8-13-13*  
NOW ON FILE IN MY OFFICE  
WITNESS MY HAND AND SEAL OF SAID COURT THIS *13*  
DAY OF *August* A.D. 20 *13*  
CUYAHOGA COUNTY CLERK OF COURTS  
By *[Signature]*, Deputy



Affidavit of Prejudice is not well-taken and the request for disqualification of Judge Angela R. Stokes is denied.

**IT IS SO ORDERED**

8/13/13  
Date

  
\_\_\_\_\_  
NANCY A. FUERST  
Presiding/Administrative Judge  
Cuyahoga County Common Pleas Court, Gen Div

Certificate of Service

A copy of the foregoing Judgment Entry has been mailed August 13, 2013 to Stanley E. Stein, Esq and Ashley L. Jones, Esq, Attorneys for Robert W. Downing, 75 Public Square, Suite 714, Cleveland, OH 44113 by ordinary mail, hand delivered and faxed to the Cleveland Municipal Court at 216.664.4238, and filed with the Clerk, Cleveland Municipal Court, 1200 Ontario St., Cleveland, OH 44113.

**CLERK**

**AUG 14 2013**

JUDGMENT ENTRY RECEIVED  
FOR JOURNALIZATION  
CENTRAL SCHEDULING

  
\_\_\_\_\_  
NANCY A. FUERST  
Presiding/Administrative Judge  
Cuyahoga County Common Pleas Court, Gen Div

RECEIVED FOR FILING

**AUG 13 2013**

THE STATE OF OHIO  
Cuyahoga County

CUYAHOGA COUNTY  
CLERK OF COURTS  
OF COMMON PLEAS WITHIN  
AND FOR SAID COUNTY, Deputy

HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY  
TAKEN AND COPIED FROM THE ORIGINAL gc added

NOW ON FILE IN MY OFFICE  
WITNESS MY HAND AND SEAL OF SAID COURT THIS 13  
DAY OF Aug A.D. 20 13  
CUYAHOGA COUNTY CLERK OF COURTS  
By P. Stelm, Deputy

EXHIBIT C

**BEFORE THE BOARD OF COMMISSIONERS  
ON  
GRIEVANCES AND DISCIPLINE  
OF  
THE SUPREME COURT OF OHIO**

**FILED**  
**FEB 18 2014**  
BOARD OF COMMISSIONERS  
ON GRIEVANCES & DISCIPLINE

**In re:**

**Complaint against**

**Judge Angela Rochelle Stokes**

**Case No. 2013-057**

**Respondent**

**Disciplinary Counsel**

**Relator**

**PANEL ORDER**

This matter comes before the Panel for determination of the Relator's Motion for Psychiatric Evaluation filed on January 7, 2014. The Panel has reviewed the motion and the materials submitted in support thereof, the Respondent's Brief in opposition to the Motion and the Relator's Reply. In addition, the Panel members conducted a phone conference among themselves to discuss these materials and the applicable law.

Rule V, Section 7(C) of the Rules for the Government of the Bar grants a hearing Panel the discretion to order a psychiatric evaluation on its own motion or the motion of either party under certain specified conditions, one of which is that the mental illness of the respondent has been placed at issue. Mental illness is assigned that meaning set forth in R.C. 5122.01(A), which section provides

(A) "Mental Illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or meet the ordinary demands of life.

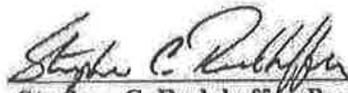
The Panel recognizes that there is a certain social stigma associated with having to undergo a psychiatric evaluation especially where, as in this case, the respondent is a well-known individual in the community. For this reason the Panel believes that an examination should only be ordered under compelling circumstances.

The Relator has presented video and affidavit evidence of the Respondent's everyday courtroom activities. This evidence fails to demonstrate conduct indicative of a mental illness as defined in R.C. 5122.01(A).

It is the Panel's ruling that the Respondent shall not be required to undergo a psychiatric evaluation at this time. Therefore, the Relator's Motion for Psychiatric Evaluation is denied. However, if additional, substantive evidence of a mental illness comes to the attention of the Panel at a later time, the Panel reserves the right to order a psychiatric examination pursuant to Gov. Bar R. V, Section 7(C) upon either the Panel's own motion or a motion of either party.

It should be further noted that this ruling is only limited to the Panel's determination of the pending motion and should not be construed as a reflection of the Panel's attitude toward the merits of the Relator's Complaint.

It is so **ORDERED**.

  
Stephen C. Rodeheffer, Panel Chair

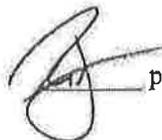
 per authorization

EXHIBIT D

IN THE CLEVELAND MUNICIPAL COURT

STATE OF OHIO  
CUYAHOGA COUNTY

)  
)  
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ADMINISTRATIVE ORDER  
NO. 2014-007

FILED  
2014 MAR 14 P 4  
CLERK OF COURT  
#4

FILED

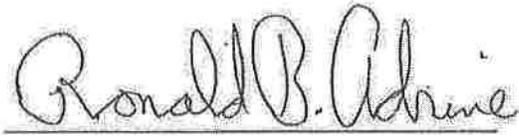
IN RE: Cuyahoga County Public Defender's Motion to Transfer Cases from the Docket of Hon. Angela R. Stokes and to Stop the Further Assignment of Criminal Cases to Her Docket

This matter came on for hearing on the court's Administrative Docket.

Upon full review and due consideration, the motion is DENIED as MOOT.

IT IS SO ORDERED.

Date: 3/14/2014



Ronald B. Adrine  
Administrative & Presiding Judge

**CERTIFICATE OF SERVICE**

A copy of the foregoing Brief in Opposition to Motion to Transfer Criminal Cases from the Docket of Hon. Angela R. Stokes and to Stop the Further Assignment of Criminal Cases to her Docket has been mailed, postage prepaid, this 17<sup>th</sup> day of March, 2014 to:

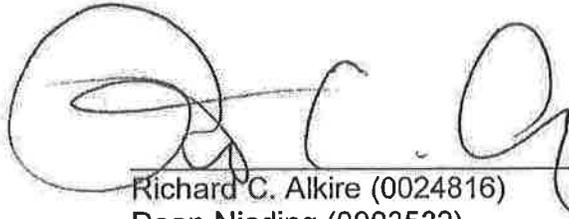
Robert L. Tobik  
310 Lakeside Avenue, Suite 400  
Cleveland Ohio 44113

Cuyahoga County Public Defender

Victor Perez  
10<sup>th</sup> Floor, Justice Center  
1200 Ontario Street  
Cleveland, OH 44113

City of Cleveland Prosecutor

Hon. Ronald Adrine  
1200 Ontario Street  
Cleveland, OH 44113



Richard C. Alkire (0024816)  
Dean Nieding (0003532)

Counsel for The Honorable  
Angela R. Stokes

LAW OFFICES OF  
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