

IN RE DISQUALIFICATION OF POKORNY.

LLOYD v. THORNSBERY.

**[Cite as *In re Disqualification of Pokorny*, 156 Ohio St.3d 1245,
2019-Ohio-1709.]**

*Judges—Affidavits of disqualification—R.C. 2701.03—Affiant failed to
demonstrate bias or prejudice—Disqualification denied.*

(No. 19-AP-021—Decided February 27, 2019.)

ON AFFIDAVIT OF DISQUALIFICATION in Portage County Court of Common Pleas
Case No. 2016CV00230.

O’CONNOR, C.J.

{¶ 1} Plaintiff, Susan Lloyd, has filed an affidavit with the clerk of this court pursuant to R.C. 2701.03 seeking to disqualify Judge Thomas Pokorny, a retired judge sitting by assignment, from presiding over any further proceedings in the above-referenced case. This is the third affidavit of disqualification that Ms. Lloyd has filed in the matter. She previously filed two affidavits against Judge Becky L. Doherty, which were denied in entries dated July 27, 2017, and January 11, 2018. *See* Supreme Court case Nos. 17-AP-062 and 18-AP-006. Judge Doherty later recused herself, and in December 2018, Judge Pokorny was assigned to preside over the underlying case.

{¶ 2} According to Ms. Lloyd’s affidavit, on January 22, 2019, the court scheduled a status conference for February 8. On February 1, Ms. Lloyd’s counsel moved to continue the status conference, citing a conflict with a case pending in Cuyahoga County in which he was representing a party. Ms. Lloyd alleges that Judge Pokorny ignored her attorney’s motion. On February 8, after the status conference, Judge Pokorny issued an entry stating that because Ms. Lloyd and her

counsel had failed to attend the conference, she was required to appear for a March 26 show-cause hearing.

{¶ 3} In her affidavit of disqualification, Ms. Lloyd claims that Judge Pokorny’s entry demonstrates bias against her and violates the Rules of Superintendence and the Code of Judicial Conduct.

{¶ 4} However, the judge’s mere scheduling of a show-cause hearing is not grounds for disqualification. If Ms. Lloyd believes that she and her counsel had valid reasons for failing to attend the conference, she may raise those arguments at the hearing. But absent other indications of judicial bias, a judge’s threat to hold a litigant in contempt—or actually holding a litigant in contempt—is insufficient to disqualify a judge from a case. *See, e.g., In re Disqualification of Gilligan*, 145 Ohio St.3d 1209, 2015-Ohio-5663, 47 N.E.3d 860, ¶ 11 (“merely because a judge threatens contempt against an attorney does not mean that the judge has lost the ability to remain impartial”); *In re Disqualification of Ruehlman*, 155 Ohio St.3d 1322, 2018-Ohio-5448, 122 N.E.3d 1304, ¶ 5 (“If [the affiant] believes that Judge Ruehlman erred by finding her in contempt or by denying her motions, she may have other remedies, including appeal. But those issues cannot be litigated in an affidavit-of-disqualification proceeding”); *In re Disqualification of Russo*, 110 Ohio St.3d 1208, 2005-Ohio-7146, 850 N.E.2d 713, ¶ 5 (“Adverse rulings, without more, are not evidence that a judge is biased or prejudiced”).

{¶ 5} The affidavit of disqualification is denied. The case may proceed before Judge Pokorny.
