

**IN RE DISQUALIFICATION OF LEACH.**

**GIBSON v. DUNN**

**AND**

**DUNN v. GIBSON.**

**[Cite as *In re Disqualification of Leach*, 164 Ohio St.3d 1244,  
2021-Ohio-2321.]**

*Judges—Affidavits of disqualification—R.C. 2701.03—Affiant was removed as party’s counsel in underlying cases and therefore lacks standing to seek judge’s disqualification from cases—Disqualification denied.*

(No. 21-AP-042—Decided April 26, 2021.)

ON AFFIDAVIT OF DISQUALIFICATION in Franklin County Court of Common Pleas,  
Domestic Relations and Juvenile Division, Case Nos. 20 DV 1747 and  
20 DV 1759.

---

**O’CONNOR, C.J.**

{¶ 1} Sallynda Rothchild Dennison has filed an affidavit and a supplemental affidavit pursuant to R.C. 2701.03 and Article IV, Section 5(C) of the Ohio Constitution seeking to disqualify Judge George Leach from the above-referenced cases and all other cases in which she appears as counsel.

{¶ 2} Ms. Dennison claims that Judge Leach is biased against her and favors her opposing counsel. Ms. Dennison primarily asserts that in scheduling a second hearing in the underlying cases, the judge accommodated opposing counsel’s schedule but forced her to appear at a time when she had previously advised the court that she was unavailable due to personal issues. Although Ms. Dennison appeared for the hearing, she objected to going forward, arguing that she was not prepared and would be providing ineffective assistance of counsel. In response,

Judge Leach removed her as counsel in the case. According to Ms. Dennison, the judge was hostile toward her and misinterpreted her words at the hearing.

{¶ 3} Judge Leach filed a response to the affidavit. The judge notes that after having difficulty scheduling a second hearing in the underlying “time-sensitive” civil-protection-order cases, he selected a date. After Ms. Dennison appeared for the hearing and informed the court of her personal difficulties, he wanted to ensure that her client had adequate representation. The judge asked Ms. Dennison’s client whether he wanted a new attorney, and the client replied that he did. The judge denies any bias and requests that the affidavit be denied.

{¶ 4} As a preliminary matter, under R.C. 2701.03(A), an affidavit to disqualify a judge may be filed by “any party to the proceeding or the party’s counsel.” As explained in previous disqualification matters, “the chief justice has strictly enforced this statutory requirement and consistently found that individuals who do not qualify as a ‘party’ or ‘party’s counsel’ do not have standing to file an affidavit of disqualification.” *In re Disqualification of Grendell*, 137 Ohio St.3d 1220, 2013-Ohio-5243, 999 N.E.2d 681, ¶ 2; *In re Disqualification of Cleary*, 74 Ohio St.3d 1225, 657 N.E.2d 1337 (1990). For example, in *In re Disqualification of Gaul*, 144 Ohio St.3d 1202, 2015-Ohio-3929, 41 N.E.3d 420, an attorney filed an affidavit of disqualification after a judge had removed the attorney from the case. The affiant, however, lacked standing; he was “not one of the persons who may file an affidavit of disqualification,” *id.* at ¶ 6.

{¶ 5} The reasoning of *Gaul* applies here. Judge Leach withdrew Ms. Dennison as counsel of record. Therefore, she lacked standing to file the affidavit of disqualification.

{¶ 6} Alternatively, if Ms. Dennison somehow remains counsel of record in the underlying cases, she has failed to establish that Judge Leach’s disqualification is necessary. In disqualification requests, “[t]he term ‘bias or prejudice’ ‘implies a hostile feeling or spirit of ill-will or undue friendship or favoritism toward one of

the litigants or his attorney, with the formation of a fixed anticipatory judgment on the part of the judge, as contradistinguished from an open state of mind which will be governed by the law and the facts.’ ” *In re Disqualification of O’Neill*, 100 Ohio St.3d 1232, 2002-Ohio-7479, 798 N.E.2d 17, ¶ 14, quoting *State ex rel. Pratt v. Weygandt*, 164 Ohio St. 463, 469, 132 N.E.2d 191 (1956). “The proper test for determining whether a judge’s participation in a case presents an appearance of impropriety is \* \* \* an objective one. A judge should step aside or be removed if a reasonable and objective observer would harbor serious doubts about the judge’s impartiality.” (Ellipsis sic.) *In re Disqualification of Lewis*, 117 Ohio St.3d 1227, 2004-Ohio-7359, 884 N.E.2d 1082, ¶ 8. In addition, a “presumption of impartiality” is accorded all judges in affidavit-of-disqualification proceedings. *In re Disqualification of Celebrezze*, 101 Ohio St.3d 1224, 2003-Ohio-7352, 803 N.E.2d 823, ¶ 7.

{¶ 7} Upon review of the record—including the hearing transcripts—Ms. Dennison has not established that Judge Leach has hostile feelings toward her, favoritism toward her opposing counsel, or a fixed anticipatory judgment on any issue in the underlying cases. Nor has Ms. Dennison set forth a compelling argument for disqualifying Judge Leach to avoid an appearance of bias. To the extent possible, judges should work with counsel in scheduling hearings. But as Judge Leach notes, some hearings are time sensitive. Regardless, “[i]t is not the role of the chief justice in deciding an affidavit of disqualification to second-guess how a trial judge manages his or her docket.” *In re Disqualification of O’Donnell*, 142 Ohio St.3d 68, 2014-Ohio-5873, 28 N.E.3d 59, ¶ 6. Ms. Dennison has not established that Judge Leach’s conduct was the product of bias against her.

{¶ 8} Finally, in her supplemental affidavit, Ms. Dennison challenges factual statements in Judge Leach’s response to the affidavit of disqualification. However, S.Ct.Prac.R. 21.02(C) provides that “[n]o reply to a response from the judge shall be permitted.” Ms. Dennison cannot circumvent this rule by labeling

SUPREME COURT OF OHIO

her filing a “supplemental” affidavit. *See In re Disqualification of Gill*, 157 Ohio St.3d 1205, 2019-Ohio-3743, 131 N.E.3d 983, ¶ 2.

{¶ 9} The affidavit of disqualification and supplemental affidavit are denied. The cases may proceed before Judge Leach.

---