

[Cite as *In re Disqualification of Jamison*, ___ Ohio St.3d ___, 2020-Ohio-4952.]

IN RE DISQUALIFICATION OF JAMISON.

SCOTT v. KENDRICKS.

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2020-Ohio-4952.]

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

(No. 20-AP-080—Decided October 6, 2020.)

ON AFFIDAVIT OF DISQUALIFICATION in Franklin County Court of Common Pleas,
Domestic Relations and Juvenile Division, Case No. 14JU16146.

O’CONNOR, C.J.

{¶ 1} Plaintiff Antwan M. Scott has filed an affidavit pursuant to R.C. 2701.03 seeking to disqualify Judge Terri Jamison from the above-referenced child-custody and child-support matter.

{¶ 2} Mr. Scott alleges that Judge Jamison is biased against him, is biased against men in general, and has been discourteous toward him. To support his allegations, he avers that the judge has shown “extreme compassion” toward his child’s mother, repeatedly continued hearings at the mother’s request, made comments indicating that she does not care whether he sees his child, interrupts him at hearings, and once threatened to arrest him if he did not promptly return the child to her mother.

{¶ 3} Judge Jamison filed a response to the affidavit and denies any bias against Mr. Scott. She also denies making many of the comments that he attributes to her, details her handling of the underlying case, and asserts that she has issued rulings based on the evidence presented.

{¶ 4} 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.” *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.

{¶ 5} Mr. Scott has not established that Judge Jamison has hostile feelings toward him or that she has formed a fixed anticipatory judgment on any issue in the underlying case. Nor has Mr. Scott set forth a compelling argument for disqualifying Judge Jamison to avoid an appearance of partiality. The burden in disqualification matters falls on the affiant to submit sufficient evidence demonstrating that disqualification is warranted. When necessary, an affiant should submit evidence beyond the affidavit to support the allegations contained therein. *See In re Disqualification of Harwood*, 137 Ohio St.3d 1221, 2013-Ohio-5256, 999 N.E.2d 681, ¶ 5. Here, Mr. Scott and Judge Jamison recall the events in the underlying case differently. Mr. Scott offered only his affidavit to support his allegations, even though many of his claims, if true, could have been substantiated by a transcript or other documentary evidence. Given the conflicting accounts in the record—and Mr. Scott’s failure to substantiate his allegations—he has failed to

set forth sufficiently compelling evidence to overcome the presumption that Judge Jamison is fair and impartial. *See, e.g., In re Disqualification of Baronzzi*, 135 Ohio St.3d 1212, 2012-Ohio-6341, 985 N.E.2d 494, ¶ 8 (affiant’s “vague and unsubstantiated allegations—especially in the face of clear denials by Judge Baronzzi—are insufficient to overcome the presumption that Judge Baronzzi is fair and impartial”).

{¶ 6} The affidavit of disqualification is denied. The case may proceed before Judge Jamison.
