IN RE DISQUALIFICATION OF PARIS.

THE STATE OF OHIO *v.* ELLIS.

[Cite as *In re Disqualification of Paris*, ___ Ohio St.3d ___, 2020-Ohio-6875.]

Judges—Affidavits of disqualification—R.C. 2701.03 and 2701.031—Affiant failed to demonstrate bias or prejudice—Disqualification denied.

(No. 20-AP-106—Decided December 15, 2020.)

ON AFFIDAVIT OF DISQUALIFICATION in Bedford Municipal Court, Case No. 20CRB00350.

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O'CONNOR, C.J.

{¶ 1} Defendant Angela Ellis has filed an affidavit pursuant to R.C. 2701.03 and 2701.031 seeking to disqualify Judge Michelle L. Paris from the above-referenced case.

{¶ 2} Ms. Ellis avers that Judge Paris has demonstrated bias and prejudice by violating Ms. Ellis's right to a speedy trial, allowing unnecessary continuances in an attempt to intimidate her into pleading guilty, and appointing several ineffective attorneys to represent her.

{¶ 3} Judge Paris filed a response to the affidavit and denies any bias against Ms. Ellis. The judge states that although Ms. Ellis's arraignment was initially delayed due to the COVID-19 pandemic, a bench trial was scheduled within six weeks of her arraignment. But Ms. Ellis, according to the judge, requested a continuance because of her dissatisfaction with her attorney. According to Judge Paris, Ms. Ellis's repeated requests for new attorneys caused the additional delays in the underlying case. The judge states that she has appointed seasoned attorneys to represent Ms. Ellis and that although jury trials are currently suspended because of the pandemic, a trial will be scheduled when it is safe to do so.

{¶ 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.

{¶ 5} Ms. Ellis has not established that Judge Paris has hostile feelings toward her or that she has formed a fixed anticipatory judgment on any issue in the underlying case. Nor has Ms. Ellis set forth a compelling argument for disqualifying Judge Paris to avoid an appearance of partiality. An affidavit of disqualification "is not a vehicle to contest matters of substantive or procedural law." *In re Disqualification of Solovan*, 100 Ohio St.3d 1214, 2003-Ohio-5484, 798 N.E.2d 3, ¶ 4. Therefore, it is outside the scope of this matter to determine whether Ms. Ellis's speedy-trials rights have been violated. "The Ohio Attorney General has opined that courts may suspend jury trials to prevent the spread of the coronavirus and they may do so consistent with state and federal speedy-trial obligations." *In re Disqualification of Fleegle*, ___ Ohio St.3d ___, 2020-Ohio-5636, ___ N.E.3d ___, ¶ 7, citing 2020 Ohio Atty.Gen.Ops. No. 2020-002.

{¶ 6} The statutory right to seek disqualification is an extraordinary remedy. *In re Disqualification of George*, 100 Ohio St.3d 1241, 2003-Ohio-5489, 798 N.E.2d 23, ¶ 5. "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." *Id.* Ms. Ellis has not overcome those presumptions here.

{¶ 7} The affidavit of disqualification is denied. The case may proceed before Judge Paris.

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