

**IN RE DISQUALIFICATION OF WILLIAMS-BYERS.**

**SOUTH EUCLID v. BICKERSTAFF.**

**[Cite as *In re Disqualification of Williams-Byers*, 157 Ohio St.3d 1245,  
2019-Ohio-4742.]**

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

(No. 19-AP-089—Decided August 12, 2019.)

ON AFFIDAVIT OF DISQUALIFICATION in South Euclid Municipal Court Case No.  
TRD 1800233A.

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**O’CONNOR, C.J.**

{¶ 1} Defendant Brenda Vernay Bickerstaff has filed an affidavit with the clerk of this court pursuant to R.C. 2701.03 and 2701.031 seeking to disqualify Judge Gayle Williams-Byers from presiding over any further proceedings in the above-referenced case, now pending for resentencing.

{¶ 2} The Eighth District Court of Appeals recently found that Judge Williams-Byers abused her discretion in sentencing Ms. Bickerstaff to five days in jail for failing to display a front license plate. *S. Euclid v. Bickerstaff*, 8th Dist. Cuyahoga No. 107526, 2019-Ohio-2223, ¶ 16. The court of appeals remanded the matter to Judge Williams-Byers to issue a new entry modifying Ms. Bickerstaff’s sentence. *Id.* at ¶ 27.

{¶ 3} In her affidavit of disqualification, Ms. Bickerstaff alleges that Judge Williams-Byers imposed the jail sentence in retaliation for a complaint filed by Ms. Bickerstaff against the judge’s magistrate. Ms. Bickerstaff also alleges that the judge and the prosecutor engaged in a conspiracy against her, and she believes that

Judge Williams-Byers will be unable to fairly resentence her after the judge’s “being reversed on appeal.”

{¶ 4} Judge Williams-Byers has filed a response to the affidavit and denies that her initial sentence was the product of bias or retaliation against Ms. Bickerstaff.

{¶ 5} For the reasons explained below, no basis has been established to order the disqualification of Judge Williams-Byers.

{¶ 6} First, the court of appeals’ decision is not grounds for the judge’s disqualification. It is well established that “[a] trial judge’s opinions of law, even if erroneous, are not by themselves evidence of bias or prejudice” and that “a judge may preside over the retrial of a case even if that judge’s rulings of law were reversed on appeal.” *In re Disqualification of Kimmel*, 36 Ohio St.3d 602, 522 N.E.2d 456 (1987). Further, the fact that a trial judge’s decision “was reversed in a critical opinion by the appeals court does not imply that she will be biased against [the appellants] or somehow retaliate against them.” *In re Disqualification of Floyd*, 135 Ohio St.3d 1249, 2012-Ohio-6336, 986 N.E.2d 10, ¶ 10. Here, the appellate opinion indicates that Judge Williams-Byers became frustrated with Ms. Bickerstaff’s conduct during sentencing. *See S. Euclid*, 2019-Ohio-2223, at ¶ 15. But the appellate decision itself does not establish that the judge’s sentence was the product of bias against Ms. Bickerstaff.

{¶ 7} Second, Ms. Bickerstaff has otherwise failed to substantiate her allegations. Specifically, she failed to submit a complete transcript of the sentencing hearing to help prove her claim that the judge demonstrated bias and a lack of judicial temperament at sentencing. And Ms. Bickerstaff’s retaliation and conspiracy allegations are based entirely on speculation. It is well-settled that “[a]llegations that are based solely on hearsay, innuendo, and speculation—such as those alleged here—are insufficient to establish bias or prejudice.” *In re*

*Disqualification of Flanagan*, 127 Ohio St.3d 1236, 2009-Ohio-7199, 937 N.E.2d 1023, ¶ 4.

{¶ 8} Finally, on remand, Judge Williams-Byers must modify Ms. Bickerstaff's sentence in accordance with the specific remand instructions from the court of appeals. To the extent that the judge fails to comply with those instructions, Ms. Bickerstaff may file an appeal. But based on this record, there is no reason to question the judge's ability to comply with that mandate. *See, e.g., Columbus v. Hayes*, 68 Ohio App.3d 184, 189, 587 N.E.2d 939 (10th Dist.1990) (remanding for further proceedings before a different municipal-court judge when the original sentencing judge, after being reversed, had made it clear that he did not intend to follow the mandate of the appeals court by declaring that he would impose the same sentence as before, even if he were reversed ten times); *In re Disqualification of Winkler*, 135 Ohio St.3d 1271, 2013-Ohio-890, 986 N.E.2d 996 (disqualifying a judge from resentencing a defendant when the judge's comments at the original sentencing hearing might reasonably cause an objective observer to question whether the judge would be able to fairly weigh any arguments that the defendant may offer at resentencing).

{¶ 9} The affidavit of disqualification is denied. Resentencing may proceed before Judge Williams-Byers.

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