

IN RE DISQUALIFICATION OF THE JUDGES OF THE SIXTH DISTRICT COURT OF
APPEALS.

DANZIGER v. RIEMAN.

[Cite as *In re Disqualification of the Judges of the Sixth Dist. Court of Appeals*,
157 Ohio St.3d 1243, 2019-Ohio-4743.]

*Judges—Affidavits of disqualification—R.C. 2501.13 and 2701.03—Affiant failed
to demonstrate bias or prejudice—Disqualification denied.*

(No. 19-AP-085—Decided August 9, 2019.)

ON AFFIDAVIT OF DISQUALIFICATION in Sixth District Court of Appeals Case No.
19CAS21.

O’CONNOR, C.J.

{¶ 1} Appellant Samuel R. Danziger has filed an affidavit pursuant to R.C. 2501.13 and 2701.03 seeking to disqualify all judges of the Sixth District Court of Appeals from deciding the above-referenced case.

{¶ 2} Mr. Danziger claims that the spouse and other relatives of Sixth District Judge Christine E. Mayle own shares of the corporation that is the subject of the underlying appeal. Mr. Danziger therefore requests Judge Mayle’s disqualification and, “[b]y reason of comity,” the disqualification of all other judges of the Sixth District. To support his position, Mr. Danziger claims that all Sixth District judges recently recused themselves from a case in which Judge Mayle’s spouse and father-in-law appeared as counsel.

{¶ 3} In response, Judge Mayle has voluntarily recused herself from the underlying case. The other judges, however, have filed a response to the affidavit of disqualification requesting that it be denied. The judges acknowledge that they have a practice of seeking visiting-judge assignments for cases in which a member

of Judge Mayle’s family appears as counsel. But because Judge Mayle’s spouse and father-in-law are not counsel in the underlying case, the judges see no reason to recuse themselves.

{¶ 4} The chief justice has disqualified entire benches of judges when the existence of a personal, professional, or political connection between the judges and the pending case could suggest to the reasonable person the appearance of bias or impropriety. For example, in *In re Disqualification of Nadel*, 47 Ohio St.3d 604, 546 N.E.2d 926 (1989), the chief justice disqualified all the judges of a common pleas court from hearing the case of a defendant charged with assaulting and kidnapping the wife and infant daughter of a judge of that court. Because an objective observer might have reasonably questioned the judges’ impartiality based on their close professional ties with the alleged victims, disqualification of the entire bench was necessary to avoid any appearance of impropriety. *See also In re Disqualification of Gallagher*, 155 Ohio St.3d 1251, 2018-Ohio-5428, 120 N.E.3d 853, ¶ 4-7 (citing cases involving requests to disqualify an entire bench of judges).

{¶ 5} Those concerns are not present here. Specifically, there is no reason to question the impartiality of the other Sixth District judges merely because the underlying case involves a corporation in which family members of one of their judicial colleagues own an unknown number of corporate shares. Further, the fact that the judges have a practice of voluntarily recusing themselves from cases in which Judge Mayle’s spouse or father-in-law *appear as counsel* does not necessitate their removal from the underlying case. “The statutory right to seek disqualification of a judge is an extraordinary remedy. 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.” (Citation omitted.) *In re Disqualification of George*, 100 Ohio St.3d 1241, 2003-Ohio-5489, 798 N.E.2d 23, ¶ 5. Those presumptions have not been overcome here.

{¶ 6} The affidavit of disqualification as to Judge Mayle is denied as moot. The affidavit as to the remaining Sixth District judges is denied on the merits. The case may be heard by any Sixth District judge other than Judge Mayle.
