

IN RE DISQUALIFICATION OF SCHWEIKERT.

IN RE CASES RELATING TO ABUBAKAR ATIQ DURRANI.

**[Cite as *In re Disqualification of Schweikert*, 158 Ohio St.3d 1211,
2019-Ohio-5487.]**

Judges—Affidavits of disqualification—R.C. 2701.03—Affiant failed to comply with the seven-day filing requirement—Affiant failed to identify the date of the next scheduled hearing—Affiant failed to set forth adequate grounds for disqualification—Disqualification denied.

(No. 19-AP-100—Decided September 12, 2019.)

ON AFFIDAVIT OF DISQUALIFICATION in Hamilton County Court of Common
Pleas, General Division, Case Nos. A1706463 et al.

O’CONNOR, C.J.

{¶ 1} Benjamin Maraam has filed another affidavit with the clerk of this court pursuant to R.C. 2701.03 seeking to disqualify Judge Mark Schweikert, a retired judge sitting by assignment, from the cases identified in Exhibit A of Mr. Maraam’s affidavit. Mr. Maraam represents the plaintiffs in medical-malpractice actions against Dr. Abubakar Atiq Durrani and various hospitals. Plaintiffs’ counsel has previously filed numerous meritless affidavits of disqualification regarding the underlying cases. *See* 155 Ohio St.3d 1207, 2018-Ohio-5255, 120 N.E.3d 3; 155 Ohio St.3d 1273, 2018-Ohio-5415, 121 N.E.3d 388; 155 Ohio St.3d 1220, 2018-Ohio-5421, 120 N.E.3d 12; *see also* case Nos. 18-AP-065, 18-AP-073, 18-AP-089, 18-AP-104, 18-AP-128, 19-AP-008, 19-AP-027, and 19-AP-030.

{¶ 2} Mr. Maraam avers that Judge Schweikert should be removed based on incompetence and alleged bias against the plaintiffs and their counsel. To support his argument, Mr. Maraam primarily criticizes the judge’s refusal to conduct group

trials, the judge’s imposition and attempted enforcement of an order prohibiting public comment on the underlying cases, the judge’s decision requiring designation of trial counsel for each case, and the judge’s order sealing jury verdicts. Mr. Maraán also repeats many of the bias allegations that were raised—and rejected—in prior affidavits of disqualification. Those allegations, however, will not be addressed again here.

{¶ 3} Judge Schweikert has responded to the affidavit and attempted to explain the legal decisions challenged in Mr. Maraán’s affidavit. According to the judge, he has maintained a fair and impartial perspective and has created an “aggressive trial schedule with multiple retired judges.”

{¶ 4} For the reasons explained below, no basis has been established to order the disqualification of Judge Schweikert.

{¶ 5} As an initial matter, R.C. 2701.03(B) provides that an affidavit of disqualification “shall be filed with the clerk of the supreme court not less than seven calendar days before the day on which the next hearing in the proceeding is scheduled,” and an affiant must include the “date of the next scheduled hearing,” R.C. 2701.03(B)(4), in the affidavit. This court incorporated those statutory requirements in S.Ct.Prac.R. 21.01(C)(3) and (4). Here, Mr. Maraán filed his affidavit on August 23, 2019, and averred that the next scheduled trial was to commence on October 12, 2019. In Judge Schweikert’s response, however, he notes that when Mr. Maraán filed the affidavit, the next scheduled trial was for August 26, 2019—only three days after the filing of the affidavit—and that another trial was scheduled for September 9, 2019. To the extent Mr. Maraán failed to comply with the seven-day filing requirement or failed to correctly identify the date of the next scheduled hearing, he violated R.C. 2701.03 and his affidavit should not have been accepted for filing.

{¶ 6} In the alternative, even if Mr. Maraán complied with the filing requirements, his affidavit fails to set forth adequate grounds for disqualification.

As previously explained, this is not the appropriate forum to review the propriety of a judge's legal decisions or case-management schedule, which is what Mr. Maraan requests when he continues to argue that Judge Schweikert's legal decisions evidence bias against the plaintiffs. "Adverse rulings, without more, are not evidence that a judge is biased or prejudiced." *In re Disqualification of Russo*, 110 Ohio St.3d 1208, 2005-Ohio-7146, 850 N.E.2d 713, ¶ 5. "Procedures exist by which appellate courts may review—and, if necessary, correct—rulings made by trial courts," but reviewing alleged legal errors is not the Chief Justice's role "under the statutory provision that the affiant has repeatedly invoked." *Id.* at ¶ 6.

{¶ 7} The affidavit of disqualification is denied.
