

IN RE DISQUALIFICATION OF SCHWEIKERT.
IN RE CASES RELATING TO ABUBAKAR ATIQ DURRANI
AND
ALBERS v. LYON.

[Cite as *In re Disqualification of Schweikert*, __ Ohio St.3d __,
2019-Ohio-5509.]

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

(No. 19-AP-125—Decided November 7, 2019.)

ON AFFIDAVIT OF DISQUALIFICATION in Hamilton County Court of Common Pleas
Case Nos. A1706463 et al. and A1903421.

O’CONNOR, C.J.

{¶ 1} Benjamin Maraan II has filed another affidavit pursuant to R.C. 2701.03 seeking to disqualify Judge Mark R. Schweikert, a retired judge sitting by assignment, from the cases purportedly identified in Exhibit A of Mr. Maraan’s affidavit.¹ Mr. Maraan represents the plaintiffs in medical-malpractice actions against Dr. Abubakar Atiq Durrani and various hospitals. The plaintiffs’ counsel and others have previously filed numerous meritless affidavits of disqualification regarding the underlying cases. *See* __ Ohio St.3d __, 2019-Ohio-5451, __ N.E.3d __; 157 Ohio St.3d 1201, 2019-Ohio-3352, 131 N.E.3d 90; 155 Ohio St.3d 1220, 2018-Ohio-5421, 120 N.E.3d 12; 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 1212, 2018-Ohio-5416, 120 N.E.3d 6; 155 Ohio St.3d 1214, 2018-Ohio-5418, 120

1. Mr. Maraan failed to attach Exhibit A to his affidavit, but he has identified the pending matters in prior affidavits of disqualification.

N.E.3d 8; *see also* Supreme Court case Nos. 19-AP-008, 19-AP-027, 19-AP-030, and 19-AP-100.

{¶ 2} Mr. Maraan avers that Judge Schweikert ignored the law, abused his judicial powers, and demonstrated bias by finding three of the plaintiffs’ attorneys and Eric Deters in criminal contempt of court. But “in general, the fact that a judge found a litigant in contempt—or threatened contempt—does not mean that the judge has lost the ability to remain impartial.” *In re Disqualification of Yarbrough*, 157 Ohio St.3d 1228, 2019-Ohio-4450, 134 N.E.3d 1233, ¶ 7. And more importantly, Mr. Maraan acknowledges that Judge Schweikert’s contempt rulings will be appealed. “The propriety of the judge’s decision[s] must be determined through the appellate process—not in an affidavit of disqualification.” *Id.* Therefore, Judge Schweikert’s contempt rulings are not grounds for his disqualification. Mr. Maraan’s affidavit of disqualification is denied.

{¶ 3} Mr. Maraan also requests Judge Schweikert’s removal from *Albers v. Lyon*, Hamilton C.P. No. A1903421, a new case in which Mr. Maraan claims that he represents plaintiffs suing Dr. Durrani’s attorneys based on alleged fraudulent conduct. Dr. Durrani, according to Mr. Maraan, is not a defendant in the new case. The record here, however, is unclear whether Judge Schweikert has been assigned to the new matter. Mr. Maraan acknowledges that the local docket indicates that the case remains with the originally assigned judge. *Id.* And Judge Schweikert indicates that a motion is pending before the originally assigned judge regarding Judge Schweikert’s assignment. Regardless, based on this record, the new case appears to fall outside the scope of Judge Schweikert’s original assignment to the above-referenced medical-malpractice cases. Therefore, Judge Schweikert should not preside over case No. A1903421.