

IN RE DISQUALIFICATION OF PALOS.

ARNOLD v. CROSBY-ARNOLD.

[Cite as *In re Disqualification of Palos*, 156 Ohio St.3d 1230, 2019-Ohio-763.]

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

(No. 18-AP-137—Decided January 18, 2019.)

ON AFFIDAVIT OF DISQUALIFICATION in Cuyahoga County Court of Common
Pleas, Domestic Relations Division Case No. DR-18-373500.

O’CONNOR, C.J.

{¶ 1} Defendant Margaret Crosby-Arnold has filed an affidavit with the clerk of this court pursuant to R.C. 2701.03 seeking to disqualify Judge Diane Palos from presiding over any further proceedings in the above-referenced domestic-relations case.

{¶ 2} Ms. Crosby-Arnold claims that Judge Palos should be removed because the plaintiff’s mother was a longtime magistrate in the common pleas court and a former colleague of Judge Palos’s. Ms. Crosby-Arnold also asserts that Judge Palos and her staff have engaged in improper conduct, including refusing to schedule a hearing on her motion to dismiss.

{¶ 3} Judge Palos has responded in writing to the affidavit and denies any bias against Ms. Crosby-Arnold. The judge states that the plaintiff’s mother was a magistrate in the probate court, not the domestic-relations court, which is a separate division of the common pleas court located in a separate area of the courthouse. Judge Palos further states that she never worked with the plaintiff’s mother, does not know her, and does not know the plaintiff. In addition, Judge Palos explained

her handling of the underlying matter and clarified why she has not yet taken any action on Ms. Crosby-Arnold's motion to dismiss.

{¶ 4} Given Judge Palos's response to the affidavit, no reasonable and objective person would question Judge Palos's impartiality based on her tenuous professional connection to the plaintiff's mother. *See In re Disqualification of Barrett*, 152 Ohio St.3d 1275, 2017-Ohio-9435, 99 N.E.3d 410. Nor has Ms. Crosby-Arnold established that Judge Palos's actions in the underlying case were the product of bias against her. *See In re Disqualification of Fragale*, 146 Ohio St.3d 1275, 2015-Ohio-5685, 57 N.E.3d 1164, ¶ 7 ("a judge's inaction on a pending motion is generally within the judge's sound discretion and is not evidence of a disqualifying interest"). "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." *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 in this case.

{¶ 5} The affidavit of disqualification is denied. The case may proceed before Judge Palos.
