

IN RE DISQUALIFICATION OF MELLING.

RILEY v. PARKER.

**[Cite as *In re Disqualification of Melling*, 160 Ohio St.3d 1222,
2020-Ohio-3096.]**

Judges—Affidavits of disqualification—R.C. 2701.03 and 2701.031—Judge voluntarily recused himself from case No. 19CVG05987—Affiants failed to demonstrate bias or prejudice as to case Nos. 17CRB02443 and 18CRB01348—Affidavits dismissed as moot as to case No. 19CVG05987 and denied as to case Nos. 17CRB02443 and 18CRB01348 and all future cases involving affiants.

(No. 20-AP-025—Decided April 2, 2020.)

ON AFFIDAVIT OF DISQUALIFICATION in Bedford Municipal Court Case No.
19CVG05987.

O’CONNOR, C.J.

{¶ 1} Natasha Parker and Shannon Parker have filed affidavits pursuant to R.C. 2701.03 and 2701.031 seeking to disqualify Judge Brian J. Melling from the above-referenced forcible-entry-and-detainer action.

{¶ 2} The Parkers allege that Judge Melling has a conflict of interest based on a friendship with the plaintiff’s attorney and that the friendship has led to the judge’s issuing a series of biased rulings against the Parkers. The Parkers also allege that Judge Melling presided over an illegal hearing in November 2019, engaged in an improper ex parte communication with the plaintiff’s attorney prior to a February 2020 hearing, and refused to admonish the plaintiff’s attorney for harassing behavior toward the Parkers.

{¶ 3} Judge Melling filed a response to the affidavits and denied engaging in any impropriety. Nevertheless, the judge recused himself from the matter in an effort to promote the interest of justice and avoid any appearance of impropriety. Judge Melling also requested that the case be assigned to another judge.

{¶ 4} Because Judge Melling has voluntarily recused himself from the forcible-entry-and-detainer action, the Parkers’ affidavits of disqualification as to that case are dismissed as moot. The assignment of a visiting judge will be addressed in a separate entry.

{¶ 5} The Parkers’ affidavits also appear to seek Judge Melling’s disqualification from two other matters—*Warrensville Hts. v. Parker*, case No. 17CRB02443, and *Warrensville Hts. v. Parker*, case No. 18CRB01348—and all future cases involving the Parkers. The Parkers, however, failed to include in their affidavits the dates of the next scheduled hearing in the two cases or, if there are no hearings scheduled, a statement that no hearings are scheduled. R.C. 2701.03(B)(4) requires an affidavit of disqualification to include the “date of the next scheduled hearing in the proceeding or, if there is no hearing scheduled, a statement that there is no hearing scheduled.” *See also In re Disqualification of O’Leary*, 156 Ohio St.3d 1280, 2019-Ohio-1729, 128 N.E.3d 248 (denying an affidavit of disqualification for failure to comply with the filing requirements in R.C. 2701.03(B)).

{¶ 6} Moreover, the Parkers have failed to include in their affidavits any specific allegations of judicial bias regarding the two other matters. Nor do they explain how Judge Melling’s relationship with the plaintiff’s attorney in the forcible-entry-and-detainer case should lead to the judge’s removal from the two other cases or all future cases involving the Parkers—even if the plaintiff’s attorney is not involved. “An affidavit must describe with specificity and particularity those facts alleged to support the claim of bias or prejudice.” *In re Disqualification of Mitrovich*, 101 Ohio St.3d 1214, 2003-Ohio-7358, 803 N.E.2d 816, ¶ 4; *see also*

R.C. 2701.03(B)(1) (requiring an affidavit of disqualification to include the “specific allegations on which the claim of interest, bias, prejudice, or disqualification is based and the facts to support each of those allegations”).

{¶ 7} The affidavits of disqualification are dismissed as moot with respect to case No. 19CVG05987 and denied with respect to case Nos. 17CRB02443 and 18CRB01348. The Parkers’ request for a blanket order of disqualification is also denied.
