

IN RE DISQUALIFICATION OF GAUL.

WOLF & AKERS, L.P.A. v. MEZU.

[Cite as *In re Disqualification of Gaul*, 147 Ohio St.3d 1219, 2016-Ohio-7034.]

Judges—Affidavits of disqualification—R.C. 2701.03—Affiant failed to meet statutory filing deadline—Affidavit dismissed.

(No. 16-AP-049—Decided June 15, 2016.)

ON AFFIDAVIT OF DISQUALIFICATION in Cuyahoga County Court of Common
Pleas Case No. CV-15-844201.

O’CONNOR, C.J.

{¶ 1} Defendant, Okechukwu Mezu, has filed an affidavit with the clerk of this court under R.C. 2701.03 seeking to disqualify Judge Daniel Gaul from presiding over any further proceedings in the above-captioned case.

{¶ 2} Mezu claims that Judge Gaul demonstrated bias against him on June 2, 2016, the first day of trial in the underlying matter. Trial is scheduled to recommence on June 16, 2016.

{¶ 3} Mezu, however, filed his affidavit of disqualification on June 15, 2016. Under R.C. 2701.03(B), an affidavit of disqualification must be filed “not less than seven calendar days before the day on which the next hearing in the proceeding is scheduled.” This statutory deadline may be set aside only “when compliance with the provision is impossible,” such as when the alleged bias or prejudice occurs fewer than seven days before the hearing date or the case is scheduled or assigned to a judge within seven days of the next hearing. *In re Disqualification of Leskovyansky*, 88 Ohio St.3d 1210, 723 N.E.2d 1099 (1999).

{¶ 4} Here, Mezu claims that it was impossible for him to file his affidavit earlier because he was out of state on a work assignment from June 5 through

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June 11, 2016, and it was not until his return to Ohio that he was informed that his previous affidavit of disqualification was rejected for filing.

{¶ 5} On this record, Mezu has not set forth a sufficient basis for excusing his failure to comply with the seven-day filing requirement in R.C. 2701.03(B). Accordingly, his affidavit of disqualification is dismissed as untimely. The trial may continue before Judge Gaul.
