

IN RE DISQUALIFICATION OF TRIGGS.

BLASSINGAME v. CINCINNATI POLICE DEPARTMENT.

**[Cite as *In re Disqualification of Triggs*, 165 Ohio St.3d 1233,
2021-Ohio-2731.]**

Judges—Affidavits of disqualification—R.C. 2701.03—Judge’s former status as assistant prosecuting attorney does not automatically require disqualification—Affiant failed to assert any specific allegations of bias—Disqualification denied.

(No. 21-AP-066—Decided June 21, 2021.)

ON AFFIDAVIT OF DISQUALIFICATION in Hamilton County Court of Common
Pleas, General Division, Case Nos. A 2003112 and A 2003027.

O’CONNOR, C.J.

{¶ 1} Plaintiff Derrick D. Blassingame has filed an affidavit pursuant to R.C. 2701.03 and Article IV, Section 5(C) of the Ohio Constitution seeking to disqualify Judge Alan C. Triggs from the above-referenced cases.

{¶ 2} According to Mr. Blassingame, the Cincinnati police department is a defendant and Judge Triggs previously served as an assistant city prosecutor and as a judge of the Hamilton County Municipal Court. Because of Judge Triggs’s prior employment with the city of Cincinnati, Mr. Blassingame asserts, he must be disqualified to avoid any appearance of impropriety. Mr. Blassingame also alleges that Judge Triggs’s courtroom procedures do not comply with guidance issued in 2020 regarding COVID-19 protocols.

{¶ 3} Judge Triggs filed a response to the affidavit. He believes that his recusal is not required based merely on his prior professional experience with the city.

{¶ 4} “The proper test for determining whether a judge’s participation in a case presents an appearance of impropriety is * * * an objective one. A judge should step aside or be removed if a reasonable and objective observer would harbor serious doubts about the judge’s impartiality.” *In re Disqualification of Lewis*, 117 Ohio St.3d 1227, 2004-Ohio-7359, 884 N.E.2d 1082, ¶ 8. In addition, in affidavit-of-disqualification proceedings, “the burden falls on the affiant to submit ‘specific’ allegations of bias.” *In re Disqualification of Knece*, 138 Ohio St.3d 1274, 2014-Ohio-1414, 7 N.E.3d 1213, ¶ 11, quoting R.C. 2701.03(B)(1). Here, no objective observer would question Judge Triggs’s impartiality merely because he previously served as an assistant city prosecutor and as a judge of the municipal court. *See, e.g., In re Disqualification of Werner*, 160 Ohio St.3d 1261, 2020-Ohio-4205, 156 N.E.3d 929, ¶ 6. If Mr. Blassingame believed that the judge’s prior professional experience created some sort of conflict of interest in the underlying matter, Mr. Blassingame was required under R.C. 2701.03 to explain those reasons with specificity. Vague and unsubstantiated allegations are insufficient to establish bias or prejudice. *In re Disqualification of Walker*, 36 Ohio St.3d 606, 522 N.E.2d 460 (1988).

{¶ 5} Similarly, Mr. Blassingame has failed to sufficiently explain why Judge Triggs’s disqualification is necessary because he no longer complies with guidance issued in 2020 regarding the COVID-19 pandemic. It is now June 2021, and the state of Ohio is in a different stage of the pandemic. There is no evidence that Judge Triggs has disregarded Mr. Blassingame’s welfare or endangered the health of those who enter the courthouse to the extent that disqualification would be warranted. *Compare In re Disqualification of Fleegle*, 161 Ohio St.3d 1263, 2020-Ohio-5636, 163 N.E.3d 609, ¶ 6-9 (disqualifying a judge from presiding over two jury trials that were scheduled for December 2020; the judge had no written COVID-19 protocols, failed to sufficiently explain the urgency of going forward

with the jury trials at that particular stage of the COVID-19 pandemic, and failed to employ remote technology to reduce the flow of people through the courthouse).

{¶ 6} The affidavit of disqualification is denied. The cases may proceed before Judge Triggs.
