

IN RE DISQUALIFICATION OF LEWIS.

CAMPBELL v. CAMPBELL.

**[Cite as *In re Disqualification of Lewis*, 165 Ohio St.3d 1292,
2021-Ohio-3910.]**

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

(No. 21-AP-102—Decided August 20, 2021.)

ON AFFIDAVIT OF DISQUALIFICATION in Franklin County Court of Common Pleas,
Domestic Relations and Juvenile Division, Case No. 11 DR 3194.

O’CONNOR, C.J.

{¶ 1} Defendant Stephen A. Campbell has filed an affidavit pursuant to R.C. 2701.03 and Article IV, Section 5(C) of the Ohio Constitution seeking to disqualify Judge Linton D. Lewis Jr., a retired judge sitting by assignment, from the above-referenced case. This is Mr. Campbell’s third affidavit of disqualification against Judge Lewis. His prior affidavits were denied in entries dated July 22, 2021, and August 5, 2021. *See* Supreme Court case Nos. 21-AP-093 and 21-AP-099.

{¶ 2} In his present affidavit, Mr. Campbell claims that Judge Lewis is biased against him primarily because the judge issued an order dismissing some of Mr. Campbell’s pending motions during the pendency of Mr. Campbell’s first affidavit of disqualification.

{¶ 3} Judge Lewis submitted a response to the affidavit and denied any bias against Mr. Campbell. The judge further explained that on July 19, 2021—one day before Mr. Campbell filed his first affidavit of disqualification—the judge mailed

for filing his order dismissing Mr. Campbell’s motions. The court, however, did not file the judge’s order until July 22.

{¶ 4} Pursuant to R.C. 2701.03(D)(1), if the clerk of this court accepts an affidavit of disqualification for filing, “the affidavit deprives the judge against whom the affidavit was filed of any authority to preside in the proceeding until the chief justice of the supreme court, or a justice of the supreme court designated by the chief justice, rules on the affidavit.” *See also State v. Myers*, 97 Ohio St.3d 335, 2002-Ohio-6658, 780 N.E.2d 186, ¶ 57 (the filing of an affidavit “automatically divests the judge of jurisdiction to proceed until the matter is resolved by this court”). Here, Judge Lewis states that he submitted his order for filing one day *before* Mr. Campbell filed his first affidavit of disqualification, although the clerk’s office did not file the order until after Mr. Campbell had filed the affidavit. Given the judge’s response, there is no reason to question his impartiality merely because his order was entered after the filing of the affidavit of disqualification. *See, e.g., In re Disqualification of Giulitto*, 163 Ohio St.3d 1223, 2021-Ohio-625, 168 N.E.3d 546, ¶ 10 (“there is no reason to question [a judge’s] impartiality merely because he appears to have inadvertently issued an entry during the pendency of [an affidavit of disqualification]”); *In re Disqualification of Lanzinger*, 155 Ohio St.3d 1222, 2018-Ohio-5259, 120 N.E.3d 14, ¶ 7 (judge’s inadvertent ruling after the filing of an affidavit of disqualification did not warrant her removal).

{¶ 5} The affidavit of disqualification is denied.

{¶ 6} Mr. Campbell has filed seven meritless affidavits of disqualification in less than eight months. After Mr. Campbell filed his first affidavit, the judge voluntarily recused herself, and the affidavit was dismissed as moot. *See* Supreme Court case No. 20-AP-117. Two of Mr. Campbell’s other affidavits were dismissed because he failed to identify a case pending before the judge against whom he filed the affidavit. *See* Supreme Court case No. 21-AP-034; *In re Disqualification of Klatt*, 165 Ohio St.3d 1206, 2021-Ohio-3271, 175 N.E.3d 590. And he has now

filed three meritless affidavits against Judge Lewis and another against Judge Andy Miller. *See also* Supreme Court case Nos. 21-AP-093, 21-AP-099, and 21-AP-100. Mr. Campbell was previously cautioned that the filing of frivolous, repeated, or unsubstantiated affidavits is contrary to the purpose of R.C. 2701.03 and a waste of judicial resources. “The statutory right to seek disqualification of a judge is an extraordinary remedy not to be used in a frivolous manner.” *In re Disqualification of Browne*, 136 Ohio St.3d 1279, 2013-Ohio-4468, 996 N.E.2d 944, ¶ 8 (imposing a sanction on a litigant for filing frivolous, unsubstantiated, and repeated affidavits of disqualification). Mr. Campbell is warned again that the filing of any additional frivolous, repeated, or unsubstantiated affidavits of disqualification will result in the imposition of a sanction.
