

**IN RE DISQUALIFICATION OF BETLESKI.**

**ANTHONY ET AL. v. WOOLBRIGHT ET AL.**

**[Cite as *In re Disqualification of Betleski*, 168 Ohio St.3d 1228,  
2022-Ohio-2838.]**

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

(No. 22-AP-066—Decided July 1, 2022.)

ON AFFIDAVIT OF DISQUALIFICATION in Lorain County Court of Common Pleas,  
General Division, Case No. 20CV200865.

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**O’CONNOR, C.J.**

{¶ 1} Honey Rothschild, counsel for the plaintiffs, has filed an affidavit pursuant to R.C. 2701.03 and Article IV, Section 5(C) of the Ohio Constitution seeking to disqualify Judge Mark A. Betleski from the above-referenced civil case.

{¶ 2} Ms. Rothschild avers that Judge Betleski is biased in favor of the defendants, who represented themselves pro se for the first two years of the litigation but recently retained an attorney. To support her claim, Ms. Rothschild primarily alleges that Judge Betleski permitted the defendants to submit frivolous filings and that the judge unnecessarily delayed the case—most notably by granting the defendants’ request to reschedule the trial to allow defense counsel sufficient time to prepare. Ms. Rothschild argues that the judge’s decision, which rescheduled the April 2022 trial to January 2023, was arbitrary and prejudicial and violated various court rules and the plaintiffs’ constitutional rights. Further, she argues that the judge’s decision will deprive her clients of their counsel of choice, as Ms. Rothschild will no longer be residing in Ohio in January 2023.

{¶ 3} Judge Betleski submitted a response to the affidavit and denies bias in favor of or against any party or counsel. The judge notes that all proceedings in the underlying case have been handled by magistrates. The judge explains his reason for continuing the trial—namely, that neither party was prepared. Judge Betleski also notes that Ms. Rothschild refused to participate in the proceeding to discuss counsel’s availability for the rescheduled trial date, although the judge notes that there is time to address Ms. Rothschild’s scheduling concerns.

{¶ 4} In disqualification requests, “[t]he term ‘bias or prejudice’ ‘implies a hostile feeling or spirit of ill-will or undue friendship or favoritism toward one of the litigants or his attorney, with the formation of a fixed anticipatory judgment on the part of the judge, as contradistinguished from an open state of mind which will be governed by the law and the facts.’ ” *In re Disqualification of O’Neill*, 100 Ohio St.3d 1232, 2002-Ohio-7479, 798 N.E.2d 17, ¶ 14, quoting *State ex rel. Pratt v. Weygandt*, 164 Ohio St. 463, 132 N.E.2d 191 (1956), paragraph four of the syllabus. “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, a “presumption of impartiality” is accorded all judges in affidavit-of-disqualification proceedings. *In re Disqualification of Celebrezze*, 101 Ohio St.3d 1224, 2003-Ohio-7352, 803 N.E.2d 823, ¶ 7.

{¶ 5} Ms. Rothschild has not established that Judge Betleski has hostile feelings toward her or her clients, has undue friendship with the defendants or their counsel, or has formed a fixed anticipatory judgment on any issue in the underlying case. Nor has Ms. Rothschild set forth a compelling argument for disqualifying the judge to avoid an appearance of partiality. In general, “[a] judge’s decision to grant or deny a party’s request for a continuance is within the sound discretion of the

judge and is not, by itself, evidence of bias or prejudice.” *In re Disqualification of Pontious*, 94 Ohio St.3d 1235, 1236, 763 N.E.2d 603 (2001). It is unclear why Judge Betleski rescheduled the trial for January 2023. But he notes that Ms. Rothschild refused to participate in the conference in which potential trial dates were discussed. The judge acknowledges, however, that there is time to address Ms. Rothschild’s scheduling concerns. Based on this record, Judge Betleski’s decision to continue the trial is not evidence of bias or a ground for removal. If Ms. Rothschild believes that the judge abused his discretion or violated her clients’ rights, the plaintiffs may raise that issue on appeal. But “alleged errors of law or procedure are legal issues subject to appeal and are not grounds for disqualification.” *In re Disqualification of Light*, 36 Ohio St.3d 604, 522 N.E.2d 458 (1988).

{¶ 6} Similarly, although “[l]engthy delays diminish confidence in the legal system and are especially injurious when they profoundly affect the lives of those before the court,” *In re Disqualification of Yarbrough*, 160 Ohio St.3d 1244, 2020-Ohio-4439, 155 N.E.3d 963, ¶ 5, Ms. Rothschild has not established that the delays here were solely caused by Judge Betleski or the product of judicial bias. Nor has Ms. Rothschild proved that Judge Betleski’s actions or inaction were so egregious that he must be removed for neglecting his judicial duties. See *In re Disqualification of Collier-Williams*, 150 Ohio St.3d 1286, 2017-Ohio-5718, 83 N.E.3d 928, ¶ 7-8.

{¶ 7} The affidavit of disqualification is denied. The case may proceed before Judge Betleski.