

IN RE DISQUALIFICATION OF BAKER ROSS.

THE STATE OF OHIO v. SHEKINA.

**[Cite as *In re Disqualification of Baker Ross*, 169 Ohio St.3d 1239,
2022-Ohio-4488.]**

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

(No. 22-AP-121—Decided October 5, 2022.)

ON AFFIDAVIT OF DISQUALIFICATION in Summit County Court of Common Pleas,
General Division, Case No. CR-2021-05-1878-A.

O’CONNOR, C.J.

{¶ 1} Defendant Bahtyah Ahyahlah Shekina has filed an affidavit pursuant to R.C. 2701.03 and Article IV, Section 5(C) of the Ohio Constitution seeking to disqualify Judge Susan Baker Ross from the above-referenced case.

{¶ 2} Ms. Shekina alleges that Judge Baker Ross demonstrated bias against her by denying her motion to dismiss the matter, which Ms. Shekina describes as a sham legal proceeding. Ms. Shekina also alleges that Judge Baker Ross threatened to issue a warrant if Ms. Shekina failed to participate in a Zoom pretrial hearing, muted Ms. Shekina during the pretrial and thereby prevented her from responding to some of the prosecutor’s allegedly false allegations, and issued an entry that falsely indicated that Ms. Shekina had waived her right to standby counsel.

{¶ 3} 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.

{¶ 4} Ms. Shekina has not established that Judge Baker Ross has hostile feelings toward her or that the judge has formed a fixed anticipatory judgment on any issue in the underlying case. Nor has Ms. Shekina set forth a compelling argument for disqualifying Judge Baker Ross to avoid an appearance of partiality. The issue here is narrow and focused on the possible bias or prejudice of a judge. *See In re Disqualification of Solovan*, 100 Ohio St.3d 1214, 2003-Ohio-5484, 798 N.E.2d 3, ¶ 4. It is outside the scope of this proceeding to determine the validity of the charges against Ms. Shekina, whether Judge Baker Ross properly decided Ms. Shekina’s motion to dismiss, or whether Ms. Shekina waived any right to standby counsel. It is well established that “[a]dverse rulings, without more, are not evidence that a judge is biased or prejudiced.” *In re Disqualification of Russo*, 110 Ohio St.3d 1208, 2005-Ohio-7146, 850 N.E.2d 713, ¶ 5. Ms. Shekina may have other remedies, including appeal, if she disagrees with Judge Baker Ross’s legal rulings, but Ms. Shekina’s dissatisfaction with those rulings is not a ground for the judge’s disqualification.

{¶ 5} Further, some of the matters complained of here—such as the judge’s ability to mute participants during a Zoom pretrial conference—fall within the

discretion of a trial judge. In general, it is not the chief justice's role in deciding an affidavit of disqualification to second-guess such decisions, especially without a transcript or record of the proceeding. *See In re Disqualification of Dezso*, 134 Ohio St.3d 1223, 2011-Ohio-7081, 982 N.E.2d 714, ¶ 12 ("trial judges are entitled to exercise discretion in performing many judicial and administrative functions, and it is not the chief justice's role in deciding an affidavit of disqualification to second-guess how a trial judge manages her docket").

{¶ 6} The affidavit of disqualification is denied. The case may proceed before Judge Baker Ross.
