

**IN RE DISQUALIFICATION OF NEFF.**

**LAKEWOOD CLIFFS, L.L.C., v. WEILER.**

[Cite as *In re Disqualification of Neff*, 169 Ohio St.3d 1258, 2022-Ohio-4584.]

*Judges—Affidavits of disqualification—R.C. 2701.03 and 2701.031—*

*Affiant failed to demonstrate bias, prejudice, or an appearance of partiality—Disqualification denied.*

(No. 22-AP-132—Decided November 17, 2022.)

ON AFFIDAVIT OF DISQUALIFICATION in Lakewood Municipal Court Case No.  
2022CVG01135.

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**O’CONNOR, C.J.**

{¶ 1} Defendant Shawn Weiler has filed an affidavit pursuant to R.C. 2701.03 and 2701.031 and Article IV, Section 5(C) of the Ohio Constitution seeking to disqualify Judge Tess Neff from the above-referenced eviction case.

{¶ 2} Mr. Weiler claims that in 2021, the plaintiff posted yard signs supporting Judge Neff’s campaign for judicial office in front of Mr. Weiler’s apartment building. According to Mr. Weiler, the plaintiff’s strong support for Judge Neff’s candidacy creates an appearance of bias requiring her disqualification from the underlying eviction matter.

{¶ 3} Judge Neff submitted a response to the affidavit asserting that one party’s display of yard signs supporting her judicial campaign is insufficient in itself to create any appearance of bias. The judge denies engaging in any conduct that may be perceived as biased and affirms that she will decide the underlying case based on the law and the facts.

{¶ 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. Mr. Weiler has not established that an objective observer would reasonably question Judge Neff’s impartiality in this case. As noted in the comments to the Code of Judicial Conduct, “[a] judge’s knowledge that a lawyer, law firm, or litigant in a proceeding \* \* \* publicly supported the judge in the campaign[] does not, in and of itself, disqualify the judge.” Jud.Cond.R. 2.11, Comment 1; *see also In re Disqualification of Swenski*, 155 Ohio St.3d 1300, 2018-Ohio-5430, 122 N.E.3d 186, ¶ 6, quoting *In re Disqualification of Celebrezze*, 74 Ohio St.3d 1231, 1232, 657 N.E.2d 1341 (1991) (“the general rule is that a judge will not be disqualified ‘merely because a party to or lawyer in the underlying case campaigned for or against the judge’ ”). Without more, the mere fact that the plaintiff posted yard signs supporting Judge Neff’s 2021 candidacy does not require her removal from the underlying matter. We elect judges in Ohio, and we therefore must ordinarily assume that a party’s support of a judge’s candidacy will not cause that judge to harbor bias or favoritism when the party later appears before the judge. *In re Disqualification of Osowik*, 117 Ohio St.3d 1237, 2006-Ohio-7224, 884 N.E.2d 1089, ¶ 6.

{¶ 5} The affidavit of disqualification is denied. The case may proceed before Judge Neff.