

**IN RE DISQUALIFICATION OF BALLARD.**

**WALDO v. THE CITY OF IRONTON.**

**[Cite as *In re Disqualification of Ballard*, 166 Ohio St.3d 1245,  
2022-Ohio-775.]**

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

(No. 22-AP-003—Decided February 11, 2022.)

ON AFFIDAVIT OF DISQUALIFICATION in Lawrence County Court of Common Pleas, General and Domestic Relations Division, Case No. 21-OC-540.

---

**O’CONNOR, C.J.**

{¶ 1} Plaintiff Rayetta W. Waldo has filed an affidavit and a supplemental affidavit pursuant to R.C. 2701.03 and Article IV, Section 5(C) of the Ohio Constitution seeking to disqualify Judge Andrew P. Ballard from the above-referenced case against the city of Ironton.

{¶ 2} Ms. Waldo claims that Judge Ballard’s impartiality might reasonably be questioned if he continues presiding over the case. According to Ms. Waldo, in 2013, the judge—while he was in private practice—represented Ironton in a matter adverse to Ms. Waldo’s interests.

{¶ 3} Judge Ballard submitted a response to the affidavit and explained the circumstances that led to his representation of Ironton in 2013. Specifically, the judge states that the city requested that he prepare a legal opinion concerning a zoning dispute between the city’s solicitor—in his personal capacity—and Ms. Waldo and her husband. Judge Ballard issued the “non-adversarial legal opinion,” he says, based on his expertise and training without concern regarding who “won

or lost” the zoning matter. Judge Ballard notes that this was the only instance in his professional career in which Ironton paid him for legal services. Judge Ballard does not believe that the 2013 matter will affect his ability to fairly and impartially preside over the underlying civil action involving Ms. Waldo and Ironton.

{¶ 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. “The reasonable observer is presumed to be fully informed of all the relevant facts in the record—not isolated facts divorced from their larger context.” *In re Disqualification of Gall*, 135 Ohio St.3d 1283, 2013-Ohio-1319, 986 N.E.2d 1005, ¶ 6. In an affidavit-of-disqualification proceeding, “[a] judge is presumed to follow the law and not to be biased, and the appearance of bias or prejudice must be compelling to overcome these presumptions.” *In re Disqualification of George*, 100 Ohio St.3d 1241, 2003-Ohio-5489, 798 N.E.2d 23, ¶ 5.

{¶ 5} Based on this record, Ms. Waldo has failed to submit sufficiently compelling evidence to overcome the presumption that Judge Ballard will be fair and impartial. “A judge’s prior representation of a party in matters wholly unrelated to a matter pending before the judge does not compel the judge’s disqualification, unless there is a specific showing of actual bias on the part of the judge.” *In re Disqualification of Serrott*, 134 Ohio St.3d 1245, 2012-Ohio-6340, 984 N.E.2d 14, ¶ 6. Similarly, “the mere fact that a judge, while engaged in the practice of law, was involved in unrelated litigation against a party is not generally a sufficient basis for the judge’s disqualification.” *In re Disqualification of Lucci*, 117 Ohio St.3d 1242, 2006-Ohio-7230, 884 N.E.2d 1093, ¶ 9. Ms. Waldo does not assert that the underlying civil action is factually related to the 2013 zoning dispute. Instead, she merely states that the judge represented the city in a matter involving

both her and Ironton and that the judge issued an opinion adverse to her interests. But considering the judge’s explanation of his prior representation of Ironton—which occurred nine years ago—no objective observer would reasonably question Judge Ballard’s ability to impartially preside over the underlying case.

{¶ 6} Ms. Waldo also asserts that Judge Ballard “was raised in Ironton and personally knows the solicitors.” It is well settled, however, that “the ‘mere allegation of a friendship between a judge and an attorney will not automatically result in the judge’s disqualification from cases handled by that attorney.’ ” *In re Disqualification of Lynch*, 135 Ohio St.3d 1208, 2012-Ohio-6305, 985 N.E.2d 491, ¶ 6, quoting *In re Disqualification of Ward*, 100 Ohio St.3d 1211, 2002-Ohio-7467, 798 N.E.2d 1, ¶ 4. “Judges are presumed to be capable of distinguishing their personal lives from their professional obligations.” *Id.* at ¶ 10. Ms. Waldo has not set forth facts suggesting that Judge Ballard has the type of close personal or professional relationship with any party or counsel in the underlying case that would cause an objective observer to question his ability to remain impartial.

{¶ 7} The affidavits of disqualification are denied. The case may proceed before Judge Ballard.

---