

**IN RE DISQUALIFICATION OF BLOOM.**

**IN RE C.B.**

**[Cite as *In re Disqualification of Bloom*, 173 Ohio St.3d 1216,  
2023-Ohio-3384.]**

*Judges—Affidavits of disqualification—R.C. 2701.03—Affiant failed to demonstrate a conflict of interest, an appearance of impropriety, or the lack of impartiality—Disqualification denied.*

(No. 23-AP-078—Decided August 15, 2023.)

ON AFFIDAVIT OF DISQUALIFICATION in Hamilton County Court of Common Pleas, Juvenile Division, Case Nos. /23/1127-01, /23/1127-02, /23/1268-01, /23/1268-02, /23/478-01, T/23/184-01, T/23/184-02, T/23/184-03, and /22/2156.

---

**KENNEDY, C.J.**

{¶ 1} S. David Hickenlooper, an assistant prosecuting attorney for the state of Ohio in the underlying cases, has filed an affidavit of disqualification pursuant to R.C. 2701.03 seeking to disqualify Judge Kari L. Bloom of the Hamilton County Court of Common Pleas, Juvenile Division, from presiding over cases involving C.B., a juvenile who is alleged to have assaulted an employee of the Hamilton County Juvenile Court Youth Center (“youth center”). Hickenlooper has also filed a motion to strike the judge’s response to the affidavit of disqualification because the judge failed to serve Hickenlooper with a copy.

{¶ 2} As explained below, Hickenlooper’s motion to strike is denied. Hickenlooper has also failed to establish that Judge Bloom has a conflict of interest or that the judge cannot preside over the underlying cases impartially and with an open mind. Therefore, the affidavit of disqualification is denied.

### **Trial-Court Proceedings**

{¶ 3} Between April 27 and April 29, 2023, a series of violent incidents occurred inside the youth center, resulting in injuries to residents and staff.

{¶ 4} On or about May 1, C.B. allegedly assaulted a youth-center employee over the employee confronting C.B. about having an unauthorized cup in his room.

{¶ 5} On May 2, Andrae Jones, the deputy director of housing at the youth center, filed motions to transfer four juveniles from the youth center to the Hamilton County Justice Center (“justice center”), where adult detainees are housed. K.B. was one of the four youths Jones sought to transfer to the justice center, and although it is not clear from the affidavit of disqualification, it appears that C.B. was one of the other three juveniles.

{¶ 6} On May 3, WCPO news reported on the attacks occurring in the youth center against residents and staff. Included in the online news report were quotes from Judge Bloom and Kate Buffington, another assistant prosecuting attorney, from a hearing on the motion to transfer one of those youths—presumably K.B., although it is not clear from this record.

{¶ 7} WCPO news reported that during the hearing, Judge Bloom stated, “I am not going to allow staff and other kids to continue to be attacked.” Buffington responded that “[t]he state believes that the court doesn’t have the ability to move any of the children to the [adult] Justice Center.” Speaking directly to the youth, the judge said, “If there is an issue at [the youth center] tonight and if another staff member is harmed, I’m going to tell them to take you to the Justice Center and wait for a hearing.” Buffington then stated, “If anything does happen tonight—praying that it does not happen—the state would object to them being moved, especially without a hearing on that matter.” Judge Bloom responded, “The state and its ulterior motives and decision-making can file a suit against me if that happens.” WCPO reported that the prosecutors and defense counsel objected to going forward

with hearings on the motions to transfer on May 3. Judge Bloom scheduled a hearing on the motion to transfer K.B. for the following day.

{¶ 8} The state of Ohio moved for Judge Bloom’s recusal in K.B.’s case, arguing that the judge had a conflict of interest because she was both the administrator of the youth center and the judicial officer deciding the motion to transfer filed by youth-center staff. At the commencement of the May 4 hearing on the motion to transfer K.B., Judge Bloom initially denied the motion to recuse. However, after Judge Bloom granted the motion to transfer K.B. to the justice center, the state renewed its motion for the judge to recuse, “noting [the state’s] belief that the Court showed impartiality [sic] in its decision in the motion.” The judge then granted the state’s renewed motion to recuse and assigned Judge Stacey DeGraffenreid, the other Hamilton County juvenile-court judge, to K.B.’s case.

{¶ 9} On May 17, Judge Bloom held a hearing in one of C.B.’s cases. At the beginning of the hearing, Judge Bloom raised the issue of a conflict of interest:

THE COURT: \* \* \*

So as discussed before, [C.B.’s] case is on the Judge’s docket  
\* \* \* because the allegation is that there is a witness to the \* \* \*  
assault on [a] corrections officer.

Those are obvious that those are going to be from [youth-center] witnesses.

And so disclosing to the parties that the Court is the court and that an assault on a corrections officer case would come out of [the youth center], which is a part of the court, and that there are procedures in place where the court is not notified of any of the incidents that happen when a charge is created, because of a conflict that that can create.

SUPREME COURT OF OHIO

So I will say to Mr. Cutcher [C.B.'s counsel], how do you feel about the Court's conflict? What do you want me to do?

MR. CUTCHER: If the State wants you to recuse, I would like to have a formal hearing. We would waive any potential conflict.

THE COURT: Okay.

MR. HICKENLOOPER: And, your Honor, just to be clear, I was just provided the information.

THE COURT: So that's not what you're asking?

MR. HICKENLOOPER: I'm not making a formal motion. I'm just saying if the Court is feeling that they must recuse—

THE COURT: I don't think I must recuse. I'm telling you my conflict and I'm saying do you want to waive it or not?

MR. HICKENLOOPER: At this point I would have to see if that is a conflict. And it would be the Court's conflict, not ours.

THE COURT: I know, but you can waive it when I disclose it.

Just like when I represented a person who becomes a witness, because I used to be a public defender, I disclose that.

Then the parties say sure or not. It's just like that.

I don't personally know these people. I don't personally have any information about the cases.

So if it were to come to be a trial, that's why I'm disclosing it now, because [C.B.] is locked up and I'm not letting him out.

So if you want me to recuse, you can ask me to do that now, because I'm not going [to] continue this for that purpose.

MR. HICKENLOOPER: Then, your Honor, at this point we would ask.

{¶ 10} Judge Bloom then heard from C.B.’s counsel and the state. C.B.’s counsel argued that there was no conflict of interest because there is no personal interest between the judge and the youth-center staff, just a hierarchy. In C.B.’s counsel’s view, that in and of itself did not create a conflict. The state disagreed. It argued that the judge had a “built-in conflict or potential conflict” because youth-center staff would be witnesses and Judge Bloom, as the administrative judge, has direct oversight and control over youth-center staff. The state verbally requested the judge’s recusal. Judge Bloom orally denied the motion, stating that she and Judge DeGraffenreid were equally in charge of the youth center and that if they both recused themselves in cases involving youth-center employees as witnesses, they would “run out of Judges.” Judge Bloom then set a trial date for June 7.

{¶ 11} On May 30, Hickenlooper filed an affidavit of disqualification.

{¶ 12} Before addressing the affidavit of disqualification, I turn to Hickenlooper’s motion to strike the judge’s response.

### **Motion to Strike**

{¶ 13} Hickenlooper argues that Judge Bloom’s response should be stricken because the judge failed to serve him with a copy of the response in accordance with S.Ct.Prac.R. 3.11(B) and (E).

{¶ 14} S.Ct.Prac.R. 3.11 is a general rule of practice. S.Ct.Prac.R. 3.11(B)(1)(a) requires “a party or an amicus curiae” to serve all parties when any document is filed with the clerk of the Supreme Court. S.Ct.Prac.R. 3.11(E) provides remedies when a party or amicus curiae fails to properly serve all parties. The authority to impose a sanction on a party or amicus curiae is given to the Supreme Court. S.Ct.Prac.R. 3.11(E)(2).

{¶ 15} But S.Ct.Prac.R. 21 is a specific rule of practice that applies to affidavits of disqualification. S.Ct.Prac.R. 21.02(B)(3) requires a judge to serve a copy of the response to an affidavit of disqualification on the affiant and all other

parties or their counsel in the underlying case. While S.Ct.Prac.R. 21.04 does provide that “[u]nless clearly inapplicable,” other Supreme Court Rules of Practice “shall apply and supplement these rules as necessary,” S.Ct.Prac.R. 3.11 does not apply to supplement S.Ct.Prac.R. 21.

{¶ 16} It is a general rule of constitutional and statutory interpretation that when a specific provision applies, it controls over the more general provision. *See State v. Anderson*, 148 Ohio St.3d 74, 2016-Ohio-5791, 68 N.E.3d 790, ¶ 26. Here, S.Ct.Prac.R. 21.02(B)(3) is the specific provision requiring a judge to serve a copy of the response to an affidavit of disqualification on all parties to the underlying case. Therefore, S.Ct.Prac.R. 21.02(B)(3) controls, and the general rule in S.Ct.Prac.R. 3.11(B)(1)(a) is “clearly inapplicable.” Moreover, S.Ct.Prac.R. 3.11(E)(2) empowers “*the Supreme Court*” (emphasis added) to impose sanctions for noncompliance with S.Ct.Prac.R. 3.11(B), but affidavits of disqualification are decided by the chief justice in accordance with Article IV, Section 5(C) of the Ohio Constitution. Because S.Ct.Prac.R. 21.02(B)(3) does not require a judge’s response to be stricken if not served, Hickenlooper’s motion to strike the judge’s response is denied.

### **Affidavit-of-Disqualification Proceedings**

{¶ 17} Hickenlooper argues that Judge Bloom should be disqualified from C.B.’s cases because Judge Bloom has a conflict of interest and there is an appearance of impropriety and Judge Bloom lacks impartiality and an open mind.

#### *Conflict of Interest and Appearance of Impropriety*

{¶ 18} Hickenlooper asserts two arguments in support of the allegation that Judge Bloom has a conflict of interest or that an appearance of impropriety would exist if the judge remained on C.B.’s cases. One argument relates to the judge’s role as administrative judge of the juvenile division. The other argument centers on the judge being a potential witness.

{¶ 19} Hickenlooper argues that as administrative judge of the juvenile division, Judge Bloom has direct supervisory authority over the youth center and its employees, including the ability to hire, fire, demote, and promote youth-center staff. Because the charges in one of C.B.’s cases are connected to an alleged assault of a youth-center employee, youth-center employees will be called to testify in the case. Therefore, Judge Bloom will be “presiding and rendering a decision over a case in which her own staff would testify.” Hickenlooper argues that a reasonable person would question whether the judge is prejudiced.

{¶ 20} Hickenlooper notes that this same conflict-of-interest argument was raised by the state in K.B.’s case, and Judge Bloom agreed with the argument and recused. And during the May 17 hearing in one of C.B.’s cases, Judge Bloom acknowledged that there was a conflict of interest by asking C.B.’s counsel, “[H]ow do you feel about the Court’s conflict,” and by stating, “I’m telling you my conflict.” In response to the judge’s asking C.B.’s counsel what he would have the judge do about the conflict, C.B.’s counsel waived the conflict. The judge then asked if the state would waive the conflict, and when the state refused, the state requested the judge to recuse. After hearing the arguments of C.B.’s counsel and the state, the judge denied the state’s motion.

{¶ 21} Moreover, because the injured employee has potentially commenced a workers-compensation claim and because Judge Bloom, as administrative judge, is responsible for overseeing the worksite, Hickenlooper argues that the judge “could become directly involved in those proceedings.”

{¶ 22} Finally, Hickenlooper claims that Judge Bloom may be a witness in one of C.B.’s cases. He avers that she “would be presiding and rendering a decision over a case in which \* \* \* she would be a witness.”

{¶ 23} In response, Judge Bloom maintains that Hickenlooper has failed to establish sufficient grounds for disqualification. According to Judge Bloom, Hickenlooper’s arguments are legally and factually inaccurate.

{¶ 24} Judge Bloom explains that the youth center and youth-center employees are under the direct supervision of the superintendent of the youth center, Brian Bell, not the administrative judge of the juvenile division. Bell has the authority to hire, fire, promote, and demote youth-center employees. While it is true that Bell serves at the pleasure of the juvenile court, Bell does not serve at the sole discretion of the administrative judge; rather, the youth-center superintendent reports to both judges of the juvenile division. Moreover, there is no indication that Bell will testify as a witness in any of C.B.’s cases. It has not been alleged that C.B. assaulted Bell, and Bell did not bring the complaint against C.B. Judge Bloom asserts that because Bell has direct supervisory authority over the youth center, she is “free to fulfill [her] adjudicative duties when a complaint is brought against a juvenile housed at the [youth center] for injuring an employee there.” The judge also submitted entries from prior youth-center employee-assault cases over which Judge Bloom and a former administrative judge of the juvenile division presided—apparently without any objection from the state of Ohio or request for recusal.

{¶ 25} Moreover, the judge asserts that Hickenlooper is mistaken about why the judge recused from K.B.’s case. The judge states that she initially denied the state’s motion to recuse based on the state’s argument that because the judge served as the administrative judge of the juvenile division, the judge had a conflict of interest. However, after an exchange between the judge and the state, the state “added an accusation to [the] recusal argument”—that the judge’s decision to transfer K.B. to the justice center itself demonstrated bias. Judge Bloom asserts that after the prosecutor accused her of issuing a biased ruling, the judge exercised discretion and recused from K.B.’s case. Judge Bloom states that the recusal in K.B.’s case “was unrelated to [her] alleged role overseeing the [youth center] and its employees” and has “no bearing on [her] ability to hear” C.B.’s cases.



{¶ 26} Judge Bloom also explains that she used the word “conflict” at the May 17 hearing to describe a “*possible* claim of conflict that the Prosecutor had previewed but not yet verbalized.” (Emphasis sic.) The judge was attempting to ascertain from the public defender whether, if there were a conflict, the public defender would waive it. The public defender understood the judge’s question as being “hypothetical, rather than a concession of a conflict on [the judge’s] part.” Regardless, after hearing arguments from C.B.’s counsel and Hickenlooper, the judge decided that there was no conflict.

{¶ 27} As to Hickenlooper’s argument that the judge could become involved in a potential workers-compensation proceeding, Judge Bloom reiterates that Bell and his subordinates are responsible for handling any workers’ compensation action involving youth-center staff. Any claim that the judge may become involved in any such action involving the C.B. incident is “purely hypothetical at this point.”

{¶ 28} Lastly, Judge Bloom states that she has no material information about C.B.’s cases and that whatever “unexplained” information Hickenlooper might seek from the judge, other witnesses would be more suitable to provide it. So, the judge says, she would not be a witness.

*Lack of Impartiality and an Open Mind*

{¶ 29} Hickenlooper asserts two arguments in support of the allegation that Judge Bloom lacks impartiality or an open mind in C.B.’s cases. Both arguments stem from Judge Bloom’s statements and conduct during the May 3 and 4 hearings.

{¶ 30} During the May 3 hearing, as reported by WCPO news, Judge Bloom stated that she was “not going to allow staff and other kids to continue to be attacked.” Hickenlooper argues that Judge Bloom’s statement suggests that the judge “would be biased in any decision [the judge] renders because it is [the judge’s] role as [a]dministrator of the [youth center] to keep all staff and juveniles

safe.” In addition to the above statement, without further explanation, the judge asserted that the prosecutor’s office has “ulterior motives.”

{¶ 31} Hickenlooper also argues that after Judge Bloom recused from K.B.’s case on May 4, the judge indicated that she could speak with youth-center staff about the violent incidents at the youth center; he also states that the judge reviewed video of the incidents, including a video that was provided to the state as part of discovery in C.B.’s cases.

{¶ 32} In response, Judge Bloom acknowledges that during the May 3 hearing, she stated that no further attacks on staff would be tolerated and that if another attack happened that evening, the youth, presumably K.B., would be transferred to the justice center without a hearing. Judge Bloom disputes, however, the state’s attempt to extrapolate those remarks to C.B.’s case involving a different youth and a different alleged assault on a youth-center employee. Moreover, the judge admits making the comment during the May 3 hearing concerning “[t]he state and its ulterior motives and decision-making,” but she explains that she was referring to “the reasons why the Prosecutor’s office was opposing the transfer of the alleged attacker from the [youth center] to the [justice center].” The judge claims that the statement did not refer to the reasons why the prosecutor requested her recusal from K.B.’s case, “much less in C.B.’s case.”

{¶ 33} The judge acknowledges watching a video in open court in another case involving an alleged assault on other youth-center residents resulting in injuries to them and youth-center employees. The video depicted a group of youths attacking another group of youths at the youth center. The judge describes the video as “security footage from the [youth center] in those other cases as evidence supporting motions to transfer the alleged attackers shown on the video from the [youth center] to the [justice center].” Judge Bloom asserts that no one had suggested that C.B. was depicted in that video and that Hickenlooper has failed to explain how the judge’s viewing of that video renders the judge incapable of

impartially presiding over C.B.’s case involving a different incident than the one shown in the video.

### **Analysis**

#### *Disqualification of a Common-Pleas-Court Judge*

{¶ 34} R.C. 2701.03(A) provides that if a judge of a court of common pleas “allegedly is interested in a proceeding pending before the court, allegedly is related to or has a bias or prejudice for or against a party to a proceeding pending before the court or a party’s counsel, or allegedly otherwise is disqualified to preside in a proceeding pending before the court,” then that party or counsel may file an affidavit of disqualification with the clerk of this court. Granting or denying the affidavit of disqualification turns on whether the chief justice determines that the allegations of interest, bias, prejudice, or disqualification set forth in the affidavit exist. R.C. 2701.03(E).

{¶ 35} In affidavit-of-disqualification proceedings, the burden falls on the affiant to submit “specific allegations on which the claim of interest, bias, prejudice, or disqualification is based and the facts to support each of those allegations.” R.C. 2701.03(B)(1). Therefore, “[a]n affidavit must describe with specificity and particularity those facts alleged to support the claim of bias or prejudice.” *In re Disqualification of Mitrovich*, 101 Ohio St.3d 1214, 2003-Ohio-7358, 803 N.E.2d 816, ¶ 4. Vague and unsubstantiated allegations “are insufficient on their face for a finding of bias or prejudice.” *In re Disqualification of Walker*, 36 Ohio St.3d 606, 522 N.E.2d 460 (1988).

{¶ 36} “The 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.

{¶ 37} A judge is accorded a “presumption of impartiality” in an affidavit-of-disqualification proceeding. *In re Disqualification of Celebrezze*, 101 Ohio St.3d 1224, 2003-Ohio-7352, 803 N.E.2d 823, ¶ 7. “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.

*Conflict of Interest and Appearance of Impropriety*

{¶ 38} A “conflict of interest” means “[a] real or seeming incompatibility between one’s private interests and one’s public or fiduciary duties.” *Black’s Law Dictionary* 374 (11th Ed.2019). As stated above, an appearance of impropriety exists “if a reasonable and objective observer would harbor serious doubts about the judge’s impartiality.” *Lewis* at ¶ 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.

{¶ 39} Based on this record, Hickenlooper has failed to establish that Judge Bloom has a conflict of interest or that an appearance of impropriety would exist if Judge Bloom remained on C.B.’s cases.

{¶ 40} Turning first to the argument that the judge’s role as administrative judge creates a conflict of interest or an appearance of impropriety when a youth is alleged to have assaulted an employee at the youth center, R.C. 2152.42(A) provides that a detention facility “shall be under the direction of a superintendent,” who “shall be appointed by, and under the direction of, the judge or judges” and serve “at the pleasure of the juvenile court.” The *superintendent* “shall control,

manage, operate, and have general charge of the facility,” *id.*, and “shall appoint all employees of the facility,” R.C. 2152.42(B).

{¶ 41} Therefore, pursuant to R.C. 2152.42, Superintendent Bell controls, manages, operates, and has general charge of the youth center, including the authority to oversee employees. *Both* judges of the juvenile division appoint and direct Superintendent Bell, not the administrative judge alone. Hickenlooper overstates the facts in arguing that Judge Bloom will be presiding “over a case in which her own staff would testify.”

{¶ 42} “Generally, the more intimate the relationship between a judge and a person who is involved in a pending proceeding, the more acute is the concern that the judge may be tempted to depart from the expected judicial detachment or to reasonably appear to have done so.” *In re Disqualification of Shuff*, 117 Ohio St.3d 1230, 2004-Ohio-7355, 884 N.E.2d 1084, ¶ 6. Disqualification is appropriate when the professional relationship between a judge and a witness or the alleged victim could suggest to a reasonable person the existence of prejudice. For example, in *In re Disqualification of Nadel*, 47 Ohio St.3d 604, 605, 546 N.E.2d 926 (1989), the former chief justice disqualified all judges of a county common-pleas court from a criminal case in which a defendant was charged with assaulting and kidnapping the wife and infant daughter of another judge on that court.

{¶ 43} However, “when the professional relationship between a judge and a witness or an alleged victim is not particularly close, there is less reason to question the judge’s impartiality.” *In re Disqualification of Barrett*, 152 Ohio St.3d 1275, 2017-Ohio-9435, 99 N.E.3d 410, ¶ 6. In *Barrett*, defense counsel sought to disqualify a common-pleas-court judge from a criminal case because the alleged victim worked in the courthouse. The former chief justice denied the affidavit of disqualification, finding no evidence of a significant professional or personal relationship between the judge and the alleged victim suggesting that the judge would be tempted to depart from his expected judicial neutrality. *Id.* at ¶ 7-8. The

former chief justice noted that the alleged victim was an employee of a different division of the common pleas court, the judge did not employ the alleged victim, and the judge knew the alleged victim only vaguely as a courthouse employee. *Id.* at ¶ 7; *see also In re Disqualification of Solovan*, 100 Ohio St.3d 1238, 2003-Ohio-5483, 798 N.E.2d 21 (disqualification denied in a case in which the defendant was charged with criminal acts against county sheriff’s deputies, who provided security for the courthouse and the judges and served as bailiffs to the judges).

{¶ 44} The issue here is whether Judge Bloom must be disqualified from C.B.’s cases because the judge serves as the administrative judge of the juvenile division. As stated above, the test for determining whether a judge’s participation in a case presents an appearance of bias is an objective one. *Lewis*, 117 Ohio St.3d 1227, 2004-Ohio-7359, 884 N.E.2d 1082, at ¶ 8. Based on Judge Bloom’s lack of direct oversight of youth-center employees, no objective observer with full knowledge of the facts would doubt the judge’s impartiality. And the foregoing analysis applies equally to the state’s argument that Judge Bloom has a conflict of interest because the injured youth-center employee presumably filed a workers’ compensation claim.

{¶ 45} Moreover, contrary to Hickenlooper’s claim, during the May 4 hearing, Judge Bloom did not agree that she had a conflict of interest in K.B.’s case based on her role as administrative judge. During the hearing, the judge initially denied the state’s motion to recuse based on a purported conflict of interest after considering the motion, the Code of Judicial Conduct, and the court’s past practices. But after Judge Bloom decided to transfer K.B. to the justice center, the state renewed its motion to recuse on the basis that “the Court showed impartiality [sic] in its decision in the motion.” In response to *that argument*, the judge recused herself from K.B.’s case.

{¶ 46} “[A] judge’s voluntary removal from an earlier case does not, by itself, support disqualification from an unrelated case involving that same party or

attorney.” *In re Disqualification of Celebrezze*, 135 Ohio St.3d 1218, 2012-Ohio-6304, 985 N.E.2d 499, ¶ 7. Nor does a judge’s recusal from one youth-center-employee-assault case automatically mean that the judge must recuse from all such cases.

{¶ 47} But contrary to the judge’s response, I agree with Hickenlooper that the transcript of the May 17 hearing reveals that Judge Bloom affirmatively stated that she had a conflict. The judge did not describe the conflict as hypothetical or potential. As set forth above, Judge Bloom stated:

And so disclosing to the parties that the Court is the court and that an assault on a corrections officer case would come out of [the youth center,] which is a part of the court, and that there are procedures in place where the court is not notified of any of the incidents that happen when a charge is created, because of a conflict that that can create.

So I will say to [C.B.’s counsel], how do you feel about the Court’s conflict? What do you want me to do?

{¶ 48} After C.B.’s counsel stated that he would waive any conflict, the judge asked Hickenlooper if the state would waive the conflict. In that exchange, the judge stated, “I don’t think I must recuse. I’m telling you my conflict and I’m saying do you want to waive it or not?” After the state declined to waive the conflict, the judge permitted both sides to argue the issue.

{¶ 49} It was after those arguments that Judge Bloom changed positions on whether there was a conflict of interest. As set forth in the judge’s response and the transcript of the May 17 hearing, in the end, the judge apparently agreed with C.B.’s counsel that without a close relationship between a judge and a witness, there is no conflict. As explained above, an administrative judge does not have a

disqualifying conflict of interest just because a case involves an assault on an employee at the youth center. Judge Bloom submitted evidence indicating that both she and a former administrative judge of the juvenile court had presided over youth-center-employee-assault cases without any objection from the state of Ohio or a request for recusal.

{¶ 50} Lastly, “[i]t is well settled that a judge’s disqualification is not warranted ‘based solely on suppositions that the judge may be called as a witness.’ ” *In re Disqualification of McIntosh*, 152 Ohio St.3d 1274, 2017-Ohio-9434, 99 N.E.3d 409, ¶ 5, quoting *In re Disqualification of Gorman*, 74 Ohio St.3d 1251, 657 N.E.2d 1354 (1993). “[W]hen the evidence may be obtained from witnesses other than the trial judge, the judge is not such a material witness as to require the judge’s disqualification.” *In re Disqualification of Matia*, 135 Ohio St.3d 1246, 2012-Ohio-6343, 986 N.E.2d 8, ¶ 9. Hickenlooper has failed to explain what evidence Judge Bloom possesses, why that evidence cannot be obtained from another source, and why the judge may be a witness in C.B.’s cases.

{¶ 51} Therefore, this allegation lacks merit.

*Lack of Impartiality and an Open Mind*

{¶ 52} Hickenlooper seeks to have Judge Bloom disqualified from C.B.’s cases based on the judge’s statements during the May 3 hearing. The state, however, does not argue that Judge Bloom made any similar statements in C.B.’s cases.

{¶ 53} All judges are accorded a “presumption of impartiality.” *Celebrezze*, 101 Ohio St.3d 1224, 2003-Ohio-7352, 803 N.E.2d 823, at ¶ 7. A judge’s subjective belief as to his or her own impartiality is generally not a decisive factor in deciding an affidavit-of-disqualification request, but a judge’s personal assessment is entitled to some weight. *Lewis*, 117 Ohio St.3d 1227, 2004-Ohio-7359, 884 N.E.2d 1082, at ¶ 11, citing Flamm, *Judicial Disqualification*, Section 5.6.2, at 158 (1996). The question whether a judge’s impartiality might “reasonably



be questioned,” Jud.Cond.R. 2.11(A), is answered by considering the facts at the time of the judge’s statements or actions.

{¶ 54} Hickenlooper argues that what occurred during the May 3 hearing supports a finding that the judge lacks impartiality and an open mind. But the judge’s comments at that hearing, as set forth above, were directed at the specific youth present for that hearing, and there is no indication that C.B. was present for the May 3 hearing. The judge’s statement that she would not allow staff and other juveniles to be attacked at the youth center simply explained her reason for considering transferring the youth to the justice center. The mere fact that the state questioned Judge Bloom’s authority to transfer the youth to the justice center does not create an appearance that it caused the judge to lack impartiality and an open mind. And Judge Bloom explains that her statement that the state had an ulterior motive for its position meant that the state’s reasons for opposing the transfer of the youth to the justice center were not obvious.

{¶ 55} Moreover, the judge’s watching the security footage of a fight at the youth center during the May 4 hearing did not cause her to lack impartiality or an open mind. As the judge stated in the response, no one stated that C.B. was depicted in the video. And Hickenlooper has not explained how the judge’s viewing of the video makes the judge incapable of impartially presiding over C.B.’s case, which arises out of a different incident than the one shown in the video that the judge watched on May 4.

{¶ 56} In general, what a judge learns in his or her judicial capacity creates no personal bias for the judge and is not the kind of information that results in disqualifying the judge from a future case. *See, e.g., In re Disqualification of Callahan*, 143 Ohio St.3d 1268, 2014-Ohio-3175, 39 N.E.3d 1255, ¶ 7; *In re Disqualification of Franks*, 149 Ohio St.3d 1270, 2017-Ohio-321, 76 N.E.3d 1199, ¶ 5. A judge “is presumed to be capable of separating what may properly be

considered from what may not be considered.” *In re Disqualification of Basinger*, 135 Ohio St.3d 1293, 2013-Ohio-1613, 987 N.E.2d 687, ¶ 5.

{¶ 57} Therefore, this allegation lacks merit.

**Conclusion**

{¶ 58} For the reasons stated above, Hickenlooper’s motion to strike Judge Bloom’s response to the affidavit of disqualification is denied. Hickenlooper’s affidavit of disqualification is also denied. Therefore, Judge Bloom may proceed in C.B.’s cases.

---