

[Cite as *In re Disqualification of Brown, 2025-Ohio-5889.*]

**IN RE DISQUALIFICATION OF BROWN.**

**THE STATE OF OHIO v. GOODRICH.**

[Cite as *In re Disqualification of Brown, 2025-Ohio-5889.*]

*Judges—Affidavits of disqualification—R.C. 2701.03—A victim of crime has standing to file an affidavit of disqualification against the judge in the underlying criminal proceeding—Affiant failed to show that judge is biased against him—Disqualification denied.*

(No. 25-AP-095—Decided August 22, 2025.)

ON AFFIDAVIT OF DISQUALIFICATION in Franklin County Court of Common Pleas,  
General Division, Case No. 24 CR 006615.

---

**KENNEDY, C.J.**

{¶ 1} Karrington Norwood, the victim in the underlying criminal case, has filed an affidavit of disqualification pursuant to R.C. 2701.03, seeking to disqualify Judge Richard D. Brown of the Franklin County Court of Common Pleas, General Division. The judge filed a response to the affidavit of disqualification.

{¶ 2} As explained below, Norwood has not established that Judge Brown should be disqualified. Therefore, the affidavit of disqualification is denied. The case shall proceed before Judge Brown.

**Trial-Court Proceedings**

{¶ 3} On October 17, 2024, Norwood was assaulted by three individuals in a McDonald’s restaurant parking lot. He suffered damage to his left eye and a broken orbital bone. A grand jury later returned indictments against Cornelious Goodrich, the defendant in the underlying case, and Cedrick Love and TorShawn Williams for felonious assault.

{¶ 4} On March 18, 2025, Norwood filed a victim-impact statement, and he moved for restitution on March 21 and for an evidentiary hearing on March 24. According to Norwood, the prosecutor warned him against filing additional motions because Judge Brown did not appreciate them. Judge Brown denied the two motions.

{¶ 5} Love pleaded guilty to felonious assault. Norwood and his mother appeared at Love’s sentencing hearing on May 27. Norwood avers that at that hearing, neither “Judge Brown nor the prosecutor[ ] gave any gestures, praises or attention towards [him] or [his] mother’s statement.”

{¶ 6} Norwood filed the affidavit of disqualification on July 21.

**Affidavit-of-Disqualification Proceedings**

{¶ 7} R.C. 2701.03 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 the party’s counsel may file an affidavit of disqualification with the clerk of this court.

{¶ 8} Norwood alleges that Judge Brown should be disqualified from Goodrich’s case because the judge is biased against him. Norwood maintains that the judge has humiliated him and shown a disregard for his safety, his mental and physical well-being, and his rights. Norwood says that Judge Brown displayed favoritism toward Love at Love’s sentencing hearing by praising his improved behavior following a series of convictions, expressing sorrow that Love’s children would be without their father while Love serves his prison sentence, and allowing Love’s counsel to badmouth Norwood.

{¶ 9} In response, Judge Brown contends that Norwood lacks standing to file the affidavit of disqualification because as a crime victim, Norwood is not a party to Goodrich’s case. Judge Brown notes that Norwood has had difficulty

working with the prosecutor in seeking restitution, and the judge asserts that neither the victim’s-rights amendment to the Ohio Constitution—Marsy’s Law—nor R.C. 2929.18(A)(1), Ohio’s restitution statute, gives crime victims the right to file motions in a criminal prosecution. Judge Brown states that the restitution statute provides a crime victim with the right to file a motion only for modification of the terms of payment of restitution, and the judge argues that the legislature’s failure to allow a crime victim to file a motion for restitution shows that a crime victim may not file such a motion. The judge says that his rulings in Goodrich’s case were based on the law and that much of Norwood’s affidavit of disqualification is based on the sentencing hearing that was held in Love’s case. And at that hearing, the judge maintains, he listened carefully to the victim-impact statements and considered them in imposing Love’s sentence.

{¶ 10} Prior to addressing Norwood’s allegations against Judge Brown, there is a preliminary matter to consider: whether a victim of crime has standing to file an affidavit of disqualification. The answer to that question is yes.

#### **Standing to File an Affidavit of Disqualification**

{¶ 11} Standing to file an affidavit of disqualification is conferred by statute. *In re Disqualification of Gallagher*, 2023-Ohio-2977, ¶ 26. R.C. 2701.03(A) provides that “[i]f a judge of the 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, *any party to the proceeding or the party’s counsel may file an affidavit of disqualification* with the clerk” of this court. (Emphasis added.)

{¶ 12} Under this plain and unambiguous language, only a “party to the proceeding or the party’s counsel” may file an affidavit of disqualification. *Id.* Chief justices “have ‘strictly enforced’ this statutory language and have consistently found that ‘individuals who do not qualify as a “party” or “party’s counsel” do not

have standing to file an affidavit of disqualification.” *Gallagher* at ¶ 26, quoting *In re Disqualification of Grendell*, 2013-Ohio-5243, ¶ 2; accord *In re Disqualification of Leach*, 2023-Ohio-4776, ¶ 4.

{¶ 13} “In general, a ‘party’ is defined as ‘[o]ne by or against whom a lawsuit is brought; anyone who both is directly interested in a lawsuit and has a right to control the proceedings, make a defense, or appeal from an adverse judgment.” *In re Disqualification of Berhalter*, 2023-Ohio-4881, ¶ 21, quoting *Black’s Law Dictionary* (11th Ed. 2019). A “party’s counsel” means counsel of record in the underlying case from which the judge’s disqualification is sought or an attorney retained by a party in the underlying case to file an affidavit of disqualification in this court. See *Gallagher* at ¶ 29-30.

{¶ 14} Chief justices have decided that others besides the State, plaintiffs, and defendants are parties for purposes of filing an affidavit of disqualification. In *Berhalter*, for example, the former attorney of the criminal defendant was determined to be a party to the underlying proceeding for purposes of an outstanding motion for attorney fees. *Berhalter* at ¶ 22. Similarly, a former attorney for a party to the underlying case had standing to file an affidavit of disqualification in *In re Disqualification of Park* because the trial court had issued a citation against the attorney and ordered him to return attorney fees. 2024-Ohio-3184, ¶ 2, 16.

{¶ 15} In *In re Disqualification of Schweikert*, an alleged contemnor had standing to seek a judge’s disqualification from a contempt proceeding held in the underlying medical-malpractice cases, even though the alleged contemnor was not a plaintiff, defendant, or counsel in those cases. 2019-Ohio-5451, ¶ 4. And in *In re Disqualification of Hunter*, a newspaper had standing to seek the disqualification of a judge from deciding motions to close proceedings from the public. 2013-Ohio-4467, ¶ 7. The newspaper, which had filed objections to closing the courtroom,

was the “equivalent” of a party in the underlying proceeding given its role in the closure-of-court proceedings. *Id.*

{¶ 16} Lastly, the mother of a child who was the subject of a delinquency proceeding was determined to be a party for purposes of filing an affidavit of disqualification in *In re Disqualification of Bruns*, 2024-Ohio-1308, ¶ 21. Statutes and court rules confer rights and impose duties on parents in delinquency proceedings; for example, parents must be given notice of certain hearings, and they must be served with process and attend proceedings. *Id.* at ¶ 15-18. The mother therefore had standing to file an affidavit of disqualification.

### **Crime-Victim Standing**

{¶ 17} Marsy’s Law, Article I, Section 10a of the Ohio Constitution, provides in relevant part:

(A) To secure for victims justice and due process throughout the criminal and juvenile justice systems, a victim shall have the following rights, which shall be protected in a manner no less vigorous than the rights afforded to the accused:

(1) to be treated with fairness and respect for the victim’s safety, dignity and privacy;

(2) upon request, to reasonable and timely notice of all public proceedings involving the criminal offense or delinquent act against the victim, and to be present at all such proceedings;

(3) to be heard in any public proceeding involving release, plea, sentencing, disposition, or parole, or in any public proceeding in which a right of the victim is implicated;

(4) to reasonable protection from the accused or any person acting on behalf of the accused;

SUPREME COURT OF OHIO

(5) upon request, to reasonable notice of any release or escape of the accused;

(6) except as authorized by section 10 of Article I of this constitution, to refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused;

(7) to full and timely restitution from the person who committed the criminal offense or delinquent act against the victim;

(8) to proceedings free from unreasonable delay and a prompt conclusion of the case;

(9) upon request, to confer with the attorney for the government; and

(10) to be informed, in writing, of all rights enumerated in this section.

(B) The victim, the attorney for the government upon request of the victim, or the victim's other lawful representative, in any proceeding involving the criminal offense or delinquent act against the victim or in which the victim's rights are implicated, may assert the rights enumerated in this section and any other right afforded to the victim by law. If the relief sought is denied, the victim or the victim's lawful representative may petition the court of appeals for the applicable district, which shall promptly consider and decide the petition.

{¶ 18} Marsy's Law therefore gives victims of crime many of the same rights possessed by the traditional parties to a case. For example, crime victims have the right to notice and an opportunity to be heard and to attend proceedings open to the public. Marsy's Law also vests victims of crime with a right to

restitution, giving them a direct interest in the criminal prosecution, and it provides victims a mechanism to vindicate that right through a petition for relief filed in the court of appeals.

{¶ 19} Nonetheless, there is authority for the proposition that even after the adoption of Marsy’s Law, a crime victim is not a party to a prosecution and has no right to appeal in a criminal case. *See, e.g., State v. Hughes*, 2019-Ohio-1000, ¶ 14-16 (8th Dist.) (lead opinion); *State ex rel. Thomas v. McGinty*, 2020-Ohio-5452, ¶ 66 (Kennedy, J., dissenting); *see also State ex rel. Suwalski v. Peeler*, 2021-Ohio-4061, ¶ 36 (crime victim not a party to a proceeding to restore firearm rights).

{¶ 20} However, that authority predates the enactment of R.C. 2930.19(A)(1), which provides that “[a] victim, victim’s representative, or victim’s attorney, if applicable, or the prosecutor, on request of the victim, has standing as a matter of right to assert, or to challenge an order denying, the rights of the victim provided by law in any judicial or administrative proceeding.” 2022 Sub.H.B. No. 343 (effective Apr. 6, 2023). A crime victim therefore now has a statutory right to participate directly in criminal proceedings in which the rights of the victim are at stake.

{¶ 21} R.C. 2930.19(A) also affords a crime victim the right to appeal the denial of relief or, in the absence of an adequate remedy by way of appeal, to seek an extraordinary writ to challenge the denial of relief. R.C. 2930.19(A)(2)(b)(i). It grants the victim “standing to assert a right of limited appeal as it pertains to the decisions impacting the rights of the victim.” *Id.* In addition, R.C. 2930.19(A)(2)(b)(iii) creates a right for a victim to appeal from the final judgment of conviction in a criminal case within 30 days of the entry of judgment.

{¶ 22} In this case, a decision setting the amount of restitution or denying it altogether affects Norwood’s pecuniary and constitutional rights. And R.C. 2930.19(A)(2)(b) grants him standing to assert the rights of a crime victim—here, the right to restitution—in any judicial proceeding, and it gives mechanisms to

vindicate those rights. Therefore, like the affiants in *Berhalter, Park, Schweikert, Hunter*, and *Bruns*, Norwood has a direct, legally protected interest in the underlying proceedings against Goodrich. But more than that, he has a right to control the proceedings as they affect victim rights as well as the right to appeal. See *Berhalter*, 2023-Ohio-4881, at ¶ 21 (defining “party” for purposes of R.C. 2701.03(A)). Norwood is therefore a party to the underlying prosecution against Goodrich for purposes of filing an affidavit of disqualification against Judge Brown.

{¶ 23} Because a victim of crime has standing to file an affidavit of disqualification against the judge in an underlying criminal proceeding, this decision now turns to the merits of Norwood’s allegation of bias.

**Disqualification of a Common-Pleas Judge**

{¶ 24} As explained above, R.C. 2701.03(A) provides two specific grounds and a catch-all provision for the disqualification of a judge of a court of common pleas. Granting or denying an affidavit of disqualification turns on whether the chief justice determines that the interest, bias or prejudice, or disqualification alleged in the affidavit exists. R.C. 2701.03(E).

{¶ 25} 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.” *In re Disqualification of Mitrovich*, 2003-Ohio-7358, ¶ 4.

{¶ 26} Norwood alleges that Judge Brown is biased against him.

{¶ 27} “R.C. 2701.03(A) speaks in terms of *actual* bias and prejudice.” (Emphasis in original.) *Berhalter*, 2023-Ohio-4881, at ¶ 29. The General Assembly did not define “bias or prejudice” for purposes of the statute. However, as explained in prior disqualification cases, “[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*, 2002-Ohio-7479, ¶ 14, quoting *State ex rel. Pratt v. Weygandt*, 164 Ohio St. 463, 469 (1956). “Bias or prejudice on the part of a judge will not be presumed. In fact, the law presumes that a judge is unbiased and unprejudiced in the matters over which he presides, and bias or prejudice must be strong enough to overcome the presumption of his integrity.” *Id.* at ¶ 16, quoting 48A C.J.S., Judges, § 108, at 731 (1981). “A determination of whether a judge is biased or prejudiced is based on the judge’s words and/or actions and whether those words and/or actions convey that the judge is predisposed to an outcome of a case.” *Berhalter* at ¶ 28.

{¶ 28} “A judge’s subjective bias, however, is not easy to discern. The United States Supreme Court has recognized that ‘to establish an enforceable and workable framework, the Court’s precedents [also] apply an objective standard that, in the usual case, avoids having to determine whether actual bias is present.’” (Bracketed text in original.) *In re Disqualification of Clark*, 2023-Ohio-4774, ¶ 47, quoting *Williams v. Pennsylvania*, 579 U.S. 1, 8 (2016). Under an objective standard, “[t]he question is ‘whether the judge’s impartiality might reasonably be questioned by the average person on the street who knows all the relevant facts of a case.’” *In re Disqualification of Reed*, 2024-Ohio-6175, ¶ 22, quoting *In re Kansas Pub. Emps. Retirement Sys.*, 85 F.3d 1353, 1358 (8th Cir. 1996). “These outside observers are less inclined to credit judges’ impartiality and mental discipline than the judiciary itself will be.” *Id.*, quoting *In re Mason*, 916 F.2d 384, 386 (7th Cir. 1990).

### **Analysis**

{¶ 29} For the reasons explained below, Norwood has not established that Judge Brown’s disqualification is warranted.

{¶ 30} First, to the extent that Norwood attacks the prosecutor’s words and conduct, they are beyond the scope of an affidavit-of-disqualification proceeding. Article IV, Section 5(C) of the Ohio Constitution permits the chief justice to “pass upon the disqualification of any *judge* of the courts of appeals or courts of common pleas or division thereof.” (Emphasis added.) And R.C. 2701.03(A) provides for the disqualification of “a *judge* of the court of common pleas.” (Emphasis added.) Neither affords the chief justice unilateral authority to disqualify a judge based on the words and/or conduct of a prosecutor.

{¶ 31} Second, Norwood points to the prosecutor’s alleged statement that Judge Brown told her that (1) the judge did not appreciate Norwood’s filing motions and (2) the judge might treat Norwood as a hostile witness and sanction him if he filed additional motions. Any statements by the judge that the prosecutor relayed are hearsay, and “[a]llegations that are based solely on hearsay, innuendo, and speculation—such as those alleged here—are insufficient to establish bias or prejudice,” *In re Disqualification of Flanagan*, 2009-Ohio-7199, ¶ 4.

{¶ 32} However, Judge Brown admits that he denied Norwood’s motion for restitution and motion for an evidentiary hearing based on the judge’s conclusion that a crime victim is not a party to a prosecution and therefore generally may not file motions in a criminal case. That conclusion runs counter to the plain language of R.C. 2930.19(A)(1), which gives “[a] victim . . . standing as a matter of right to assert . . . the rights of the victim provided by law in any judicial . . . proceeding.” Nonetheless, “[a]dverse rulings, without more, are not evidence that a judge is biased or prejudiced.” (Brackets added.) *In re Disqualification of Bickerton*, 2023-Ohio-1104, ¶ 9, quoting *In re Disqualification of Russo*, 2005-Ohio-7146, ¶ 5. This is true even if the judge’s rulings are erroneous, as they appear to be here. See *In re Disqualification of Melnick*, 2022-Ohio-4431, ¶ 5.

{¶ 33} Lastly, Norwood contends that Judge Brown exhibited bias against him at Love’s sentencing hearing. Norwood says that the judge did not “g[i]ve any

gestures, praises or attention towards [Norwood] or [his] mother’s statement.” In contrast, Norwood contends, the judge “acknowledged and praised [Love] on how with each one of his jail sentences, he gets in less and less fights.” Norwood also points to the sympathy the judge expressed for Love’s children. Further, Norwood says that the judge permitted Love’s counsel to badmouth Norwood.

{¶ 34} Judge Brown has filed a transcript of Love’s sentencing hearing. A thorough review of the judge’s words and conduct at that hearing reveals that no reasonable person with full knowledge of all the facts would harbor serious doubts about the judge’s impartiality. The judge thanked Norwood and his mother for their statements and said that he had considered them in determining the appropriate sentence. Neither defense counsel’s argument nor the judge’s colloquy with Love show that the judge is biased or prejudiced against Norwood.

{¶ 35} Consequently, the allegation of bias against Norwood lacks merit.

#### **Conclusion**

{¶ 36} Norwood has not established that Judge Brown should be disqualified. Therefore, the affidavit of disqualification is denied. The case shall proceed before Judge Brown.

---