

SUPREME COURT OF OHIO

Wilkerson v. Wilkerson

110 Ohio St. 3d 1213 (Ohio 2005) · Decided May 4, 2005

SUMMARY

The Supreme Court of Ohio denies Chun Cha Wilkerson's affidavit seeking the disqualification of Butler County Domestic Relations Judge Eva D. Kessler. The court holds that a party's support for a judge's electoral opponent, without additional evidence of bias or prejudice, is insufficient to warrant disqualification.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Moyer, C.J.
JURISDICTION	Ohio
DECIDED	May 4, 2005
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Defendant Chun Cha Wilkerson filed an affidavit seeking the disqualification of Butler County Domestic Relations Judge Eva D. Kessler from further proceedings in the underlying divorce case.
STANDARD OF REVIEW	The court considered whether a reasonable and objective observer would harbor serious doubts about the judge's ability to serve fairly and impartially.
PRECEDENTIAL VALUE	published

TOPICS

- family law procedure
- family law
- civil procedure

PRACTICE AREAS

- family law
- judicial disqualification
- civil procedure

QUESTIONS PRESENTED

- Whether a party's public support for a judge's election opponent, without additional evidence of bias or prejudice, requires the judge's disqualification.

HOLDINGS

1. A party's or lawyer's campaigning for or against a judge is not, by itself, grounds for disqualification. Disqualification is unwarranted absent an additional reason supporting a claim of bias or prejudice.

KEY QUOTATIONS

“[T]he fact that a party or lawyer in a pending case campaigned for or against the judge is not grounds for disqualification.” (1213)

“I conclude that a reasonable and objective observer would not harbor serious doubts about the judge’s ability to serve fairly and impartially in this case.” (1214)

FACTUAL BACKGROUND

Chun Cha Wilkerson publicly supported Judge Eva D. Kessler's opponent in the 2004 Butler County primary election. Darlene Todd, a friend of Wilkerson, also criticized Judge Kessler's treatment of Wilkerson during the campaign and filed a similar affidavit. Judge Kessler denied knowing about Wilkerson's campaign support and denied any bias or prejudice against her.

PROCEDURAL HISTORY

The defendant and a friend filed affidavits under Ohio Revised Code section 2701.03 alleging that the defendant's public support for Judge Kessler's opponent in the 2004 primary created doubts about the judge's impartiality. Judge Kessler responded by denying bias and stating that she had fairly considered the defendant's and other witnesses' testimony. The Supreme Court of Ohio denied the affidavit and directed that the case proceed before Judge Kessler.

DISPOSITION

writ_denied

REMAND INSTRUCTIONS

The underlying case shall proceed before Judge Kessler.

CASES CITED

- In re Disqualification of Cleary, 77 Ohio St. 3d 1246, 1247, 674 N.E.2d 357 (1996)
- Pierce v. Charity Hosp. of Louisiana at New Orleans, 550 So. 2d 211, 214-215 (La. App. 1989)
- McDermott v. Grossman, 429 So. 2d 393 (Fla. App. 1983)
- In re Disqualification of George, 100 Ohio St. 3d 1241, 2003-Ohio-5489, 798 N.E.2d 23, ¶ 5

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