

# SUPREME COURT OF OHIO

## In re Disqualification of Knece

138 Ohio St. 3d 1274, 2014-Ohio-1414 (Ohio 2014) · No. 14-AP-005 · Decided March 5, 2014

### SUMMARY

The Supreme Court of Ohio denied supplemental affidavits seeking the disqualification of Judge P. Randall Knece in a Pickaway County domestic-relations case. The court held that a judge may undertake ministerial acts during the pendency of an affidavit of disqualification under R.C. 2701.03(D)(3), and that the allegations of bias and improper conduct were vague and insufficiently substantiated. The case was permitted to proceed before Judge Knece.

### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                     |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Ohio                                                                                                                                                                                                                                                                                                               |
| WRITING FOR THE COURT | Maureen O'Connor, Chief Justice                                                                                                                                                                                                                                                                                                     |
| JURISDICTION          | Ohio                                                                                                                                                                                                                                                                                                                                |
| DECIDED               | March 5, 2014                                                                                                                                                                                                                                                                                                                       |
| DOCKET                | 14-AP-005                                                                                                                                                                                                                                                                                                                           |
| DISPOSITION           | disqualification denied                                                                                                                                                                                                                                                                                                             |
| PROCEDURAL POSTURE    | Affidavit of disqualification proceeding arising from a Pickaway County Court of Common Pleas domestic-violence case.                                                                                                                                                                                                               |
| STANDARD OF REVIEW    | The affiant bears the burden of presenting specific, substantiated allegations and supporting evidence sufficient to establish bias, prejudice, or a disqualifying interest. 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 those presumptions. |
| PRECEDENTIAL VALUE    | Published Ohio Supreme Court opinion; precedential.                                                                                                                                                                                                                                                                                 |
| PARTIES               | Kinsley F. Nyce, counsel for defendant Mark Rothwell v. Judge P. Randall Knece                                                                                                                                                                                                                                                      |

### TOPICS

civil procedure

appellate procedure

family law procedure

standard of review

### PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether Judge Knece was prohibited from conducting the bond-disbursement hearing and entering the disbursement order after an affidavit of disqualification was filed.
2. Whether Judge Knece's conduct during the hearing and subsequent teleconference demonstrated bias, prejudice, or a disqualifying interest requiring disqualification.
3. Whether Nyce submitted sufficiently specific and supported allegations to establish grounds for disqualification.

## HOLDINGS

1. Although the filing of an accepted affidavit of disqualification generally deprives the challenged judge of authority to preside, R.C. 2701.03(D)(3) permits the judge to decide matters that do not affect a substantive right, including ministerial matters.
2. A party's dissatisfaction or disagreement with a judge's rulings, even if the rulings are erroneous, does not constitute bias or prejudice and is not grounds for disqualification.
3. Disqualification was unwarranted because Nyce's allegations of animosity, aggression, intimidation, and lack of neutrality were vague, unsubstantiated, and insufficient to overcome the presumption that the judge was not biased.

## KEY QUOTATIONS

*“R.C. 2701.03(D)(3) authorizes a judge against whom an affidavit is filed to decide matters that do not affect a substantive right of any of the parties.”* (¶ 6)

*“It is well settled that a party’s ‘dissatisfaction or disagreement with a judge’s rulings, even if those rulings may be erroneous, does not constitute bias or prejudice and is not grounds for the judge’s disqualification.’”* (¶ 9)

*“For the reasons explained above, Nyce’s supplemental affidavits are denied. The case may proceed before Judge Knece.”* (¶ 15)

## FACTUAL BACKGROUND

After Nyce filed an affidavit of disqualification against Judge Knece, the judge proceeded with a hearing on disbursement of a supersedeas bond and ordered the proceeds disbursed to the plaintiff. Nyce alleged that the judge acted aggressively and with animosity during the hearing. Nyce also alleged that Judge Knece improperly initiated a teleconference and referred counsel to a pending contempt motion, but the judge explained that he was attempting to resolve outstanding procedural matters.

## PROCEDURAL HISTORY

Kinsley F. Nyce filed an affidavit of disqualification against Judge P. Randall Knece, followed by two supplemental affidavits alleging improper conduct and bias. The initial affidavit was first denied because the

record did not show that anything remained pending, but the supplemental filings established that motions under Ohio Civil Rules 59 and 60 were pending. The Supreme Court of Ohio denied the supplemental affidavits and permitted the underlying case to proceed before Judge Knece.

## DISPOSITION

disqualification denied

## CASES CITED

- In re Disqualification of Hayes, 135 Ohio St. 3d 1221, 2012-Ohio-6306, 985 N.E.2d 501, ¶ 6
- In re Disqualification of Leskovyansky, 88 Ohio St. 3d 1210, 723 N.E.2d 1099 (1999)
- State v. Myers, 97 Ohio St. 3d 335, 2002-Ohio-6658, 780 N.E.2d 186, ¶ 57
- State ex rel. Stern v. Mascio, 81 Ohio St. 3d 297, 691 N.E.2d 253 (1998)
- State ex rel. Kreps v. Christiansen, 88 Ohio St. 3d 313, 725 N.E.2d 663 (2000)
- Columbus Checkcashers, Inc. v. Guttermaster, Inc., 10th Dist. Franklin No. 13AP-106, 2013-Ohio-5543, ¶¶ 18, 28
- In re Disqualification of Griffin, 101 Ohio St. 3d 1219, 2003-Ohio-7356, 803 N.E.2d 820, ¶ 9
- In re Disqualification of Celebrezze, 74 Ohio St. 3d 1242, 657 N.E.2d 1348 (1992)
- In re Disqualification of Floyd, 101 Ohio St. 3d 1217, 2003-Ohio-7351, 803 N.E.2d 818, ¶ 4
- Disciplinary Counsel v. Shimko, 134 Ohio St. 3d 544, 2012-Ohio-5694, 983 N.E.2d 1300, ¶ 32
- United States v. Brown, 72 F.3d 25, 29 (5th Cir. 1995)
- In re Disqualification of Baronzzi, 135 Ohio St. 3d 1212, 2012-Ohio-6341, 985 N.E.2d 494, ¶ 6
- In re Disqualification of Walker, 36 Ohio St. 3d 606, 522 N.E.2d 460 (1988)
- In re Disqualification of George, 100 Ohio St. 3d 1241, 2003-Ohio-5489, 798 N.E.2d 23, ¶ 5