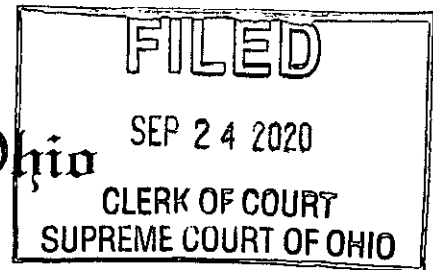


SANDRA KUH
2020 SEP 28 PM 3:36

SUMMIT COUNTY
CLERK OF COURTS

The Supreme Court of Ohio



In re Disqualification of Hon. Patricia Cosgrove

Case No. 20-AP-078

ENTRY

ON AFFIDAVIT OF DISQUALIFICATION in
State of Ohio v. Aaron Allen Cole, Summit
County Court of Common Pleas, General
Division, Case No. CR-2019-11-3893-A

Pursuant to R.C. 2701.03(C)(1)(b), notice is hereby given to the clerk of the Summit County Court of Common Pleas, General Division, that on September 23, 2020, the Clerk of the Supreme Court accepted for filing an affidavit seeking to disqualify Judge Patricia A. Cosgrove from the following matter: *State of Ohio v. Aaron Allen Cole*, Summit County Court of Common Pleas, General Division, Case No. CR-2019-11-3893-A.

R.C. 2701.03(C)(1)(c) requires that upon receipt of this notice, the clerk shall enter the fact of the filing of the affidavit on the docket of the proceeding pending in the Summit County Court of Common Pleas, General Division.

A handwritten signature in black ink, appearing to read "Maureen O'Connor", written over a horizontal line.

Maureen O'Connor
Chief Justice

In The SUPREME COURT OF OHIO

Judge: Patricia Cosgrove
Summit County Court of Common Pleas
Case no. CR2019-11-3893-A

20AP078

State of Ohio
Plaintiff

v.
Aaron A. Cole
pro se defendant

Affidavit of disqualification
Pursuant to R.C. 2701.03, Article IV, Section 5(D),
S.Ct. Proc. R. 21.01 - 21.04

Affidavit of Disqualification

Aaron A. Cole #112999 pro se defendant - Affiant

205 E. Crocker St
Akron, OH 44311

By *OC*

Judge: (Sitting by Assignment)
Patricia Cosgrove - 20JA1059
209 S. High St
Akron, OH 44308

Daniel Satterson
Assistant Prosecutor
53 University Ave
Akron, OH 44308

John Chapman
Standby Counsel
631 W. Exchange St
Akron, OH 44320

RECEIVED

SEP 23 2020

CLERK OF COURT
SUPREME COURT OF OHIO

FILED

SEP 23 2020

CLERK OF COURT
SUPREME COURT OF OHIO

In the Supreme Court of Ohio

State of Ohio

Plaintiff

v.

Aaron A. Cole
pro se defendant

Judge: Patricia Cosgrove
Summit County Court of Common Pleas
Case No. CR2011-3893-A

Affidavit of Disqualification
pursuant to R.C. 2701.03, Article IV, section 5(C),
S.Ct. Prac. R. 21.01-21.04

Affidavit of Disqualification

At this present time, Affiant currently does not have any scheduled hearings that I've been made aware of, S.Ct. Prac. R. 21.01 (EX 3C)

On 6/10/20 Judge Patricia Cosgrove was assigned to my case and coincidentally she also conducted the hearing set to rule on my outstanding motions, which, prejudicial to me, had been held off being addressed three months. The rulings issued by her that day, which were journalized on 7/15/20, and her actions (or the lack thereof) since then, clearly prejudicial to me, and makes it apparent her bias in favor of the state's interest. (1) Interest of the County's agents to keep the courts closed to inmates. Prejudice to me by refusing to transport me to a scheduled suppression hearing and rescheduled it for 2 months later, in furtherance of the courts agenda and to prejudice me. On 6/10/20 during the video conference, I requested to be transported to the courthouse to review the body camera footage and physical evidence, which I have yet to examine. Under the color of misc order 2020 700 she refused to transport me or even submit a request to transport me to the Administrative judge. I also requested a more timely suppression hearing, which the previous judge, Alison Breux, had prejudicially rescheduled on 6/11/20 (it was set for 6/15/20) until 8/14/20. She denied my request. Summit County Court of Common Pleas refuses to transport inmates and her decision was in the interest of the courts agenda and to further prejudice me. According to the Supreme Courts holding in the Ashland County Court of Common Pleas (April 27, 2020), in-person jury trials could be held. Since that's true, there was no Constitutional justification for refusing to transport me to a suppression hearing and to review the physical evidence and body camera footage. Two days after the hearing, the prosecutor introduced new fabricated chain of custody reports and police reports to undermine the issues raised at the hearing.

(2) Prejudice, interest bias

At the 6/10/20 hearing, Judge Cosgrove ruled on 39 outstanding motions of mine. Her rulings were intentionally prejudicial to me and unconscionably in favor of the state. The rulings are as follows:

(a) Denied OWA of fingerprints to be taking of a weapon they knew I never possessed. On 10/20/19 four complaints were filed against me for a 9mm, but, later those reports vanished and reports were inserted listing the gun as a .380. The serial numbers doesn't match between the police reports and the (original) chain of custody report (the reports prior to the 6/10/20 hearing) and the pictures of the weapon that are on disc doesn't have (any) serial number on the gun. It's been shown off. The state lied about performing gunballistics testing on the weapon, but, still hasn't produced the reports because they don't exist. I requested prints and or DNA testing to prove I never possessed that particular weapon.

(b) On 6/25/20 I requested that the language in the journal entry be amended to reflect the truth of the matter, that (I) never requested a continuance of the suppression hearing that was rescheduled on 6/11/20 until 8/14/20. On 6/11/20 Judge Alison Breux refused to transport me to the courthouse for the scheduled 6/15/20 suppression hearing, which I had been waiting to have since I filed the

filed the motion of 3/9/00. On 6/11/00 I had a video conference in which I was asked if I would agree to waive my right to be physically present pursuant to Criminal rule 43 and have the suppression hearing on the TV monitor. I refused and asked to be transported. I had previously filed motions with the Administrative Judge, Amy Corral Jones, to be transported in accordance with misc order 2000 700, which the courts were unconstitutional operating under (at that time). As a result of my refusal to waive the right to be physically present, the suppression hearing was rescheduled for 8/11/00. Upon receiving the journal entry, I noticed that time was fixed to me and the journal entry stated that [I] repeat the continuance. In the 6/15/00 motion, I argued that a refusal to waive the right to be physically present pursuant to Crim R 43, should not be interpreted as a motion for continuance under RCR 45.72. On 6/15/00 Judge Cosgrave denied the motion to amend the language which prejudice me, because I never waived any trial time limits. I've been in county jail in lieu of bail since 10/20/99 and this court seeks to delay my proceedings indefinitely, and the language in the journal entry is in furtherance of the interest of the courts to unduly delay. This judge is bias and prejudice towards me, and her ruling is just one of many that demonstrates her bias and prejudice towards me.

(C) Prejudice: Denied my motion to interview witnesses

On 7/15/00 Judge Cosgrave denied my 6/15/00 motion to be transported to the police station and the adult parole building to interview potential witnesses. I'm a pro se defendant so I'm already at a disadvantage. The ruling is simply due to the prejudicial nature of this judge towards me, who grants my motions in pretense only and denies all the rest which will enable my best defense. The ruling denies me my right to self-representation.

(D) Bias, Prejudice, Interest

Denied jail calls.

My co-defendant has agreed to testify in exchange for a deal. On 6/15/00 I filed a motion to have the jail release the calls to me. The calls were between me and my co-defendant who has been released, and her calls as well while she was in jail. The calls could be admissible under the Ohio Rules of Evidence. Because those calls would be harmful to the states' case and helpful to mine, Judge Cosgrave denied the request. The prosecutor can pick and choose whichever calls will benefit his case against me, but I'm precluded from using the calls that would benefit my case.

(E) Bias, Prejudice, Interest.

Grossly and intentionally misinterpreted my motion to allow the prosecutor to use reports that are fabricated.

On 6/18/00 I filed a addendum to my motion to suppress. Because I'm pro se I made the rookie mistake of being too particular in regard to the issues I intended to raise at the suppression hearing. I also raised the same issues at the 6/11/00 video conference. Two days after the hearing on 6/11/00, the prosecutor furnished new reports that covered all the issues I raised. On 6/18/00 I filed a motion in limine to exclude the reports, citing the exclusionary clause in Evid R 803(B), when "trustworthiness is demonstrably compromised." The judge denied the motion but interpreted the motion to [exclude] the untrustworthy reports as a "motion to compel the state to furnish discovery." Judge Cosgrave has over 30 years of experience and she knows what a motion in limine is. Because she's bias, and prejudice against me and only has the states' interest at heart, and not the interest of justice, she is allowing the prosecutor to use the fabricated reports so that we don't have to suppress the gun.

(F) Prejudice, Interest

Denied my motion to not have time taxed to me due to the courts unwillingness to hold in-person hearings. On 6/8/20 I filed a motion to not have time taxed to me for the courts undue delay. Though I wasn't aware of the Administrative Actions 2020-Ohio-1166 by this court at the time of filing the motion, or the Supreme Courts ruling in Ashland County on April 27, 2020 or H.B. 197, Judge Cosgrove was well aware. At the time of filing the motion the Summit County Court of Common Pleas was operating under the order of Misc order 2020 700, which was no longer Constitutionally justifiable, which is apparent by the ruling in Ashland County. Further, H.B. 197 expired either when the "emergency ended" or "July 30, 2020", whichever is sooner; Administrative Actions 2020-Ohio-1166(A), and section (E) establishes that "Upon expiration of this order, all time requirements tolled by this order shall resume." Since this [S]upreme Court has already ruled in Ashland County, and the language in the OJC memorandum was in conformity with such ruling, I argue that the Ashland County ruling established the emergency was over. This judge lied in the order denying my motion, by stating that the Supreme Court extended the order until July 31, 2020. Time has been continuously taxed to me. Her interest is not in justice, but in conformity with the Summit County Court of Common Pleas agenda to keep the courts closed to inmates. This prejudice me. I have never waived any trial time limits.

(G) Prejudice, Interest, Bias

Denied motion to have live testimony of the person they claim performed the operability testing at BEI. On 6/8/20 I requested that the person who the prosecutor claimed performed the operability testing, be produced at trial, citing *Melendez-Velazquez v. Massachusetts*, 557 U.S. 305, 129 S.Ct. 2577, 174 L.Ed. 2d 314 (2009) and *Bullcoming v. New Mexico*, 564 U.S. 647, 131 S.Ct. 2705, 180 L.Ed. 2d 600 (2011), which rejected the notion of a surrogate analyst as satisfying the Confrontation Clause. Judge Cosgrove denied the motion. This allows the prosecutor to conceal the lie told that BEI performed the testing. Because of bias, interest and prejudice of the judge who wants to prevent me from uncovering anything that will help me win the case (County Jail calls, grand jury testimony, examining the weapon, credits of everyone testifying, production of law enforcement conduct history, pictures of the weapon etc.) she denied me of the right to confront the person who [allegedly] prepared the BEI report.

(H) Prejudice, Bias, Interest

Judicial notice denied.

On 6/23/20 I filed a motion to take judicial notice. This judge denied it and refused to even allow me to be heard on the motion, which is mandatory pursuant to Evidence 201(E). The issues were undisputed. In conformity with her prejudicial nature and bias towards me, she denied the motion. Her interest is obstructing the Summit County Court of Common Pleas in depriving me of the meaningful opportunity to defend myself. It also shows the prejudice and bias.

(I) Refusal to acknowledge my motion for commitment papers (interest, bias, prejudice).

Defendant has previously filed 2 writs of habeas Corpus in the 9th Dist. which was dismissed due to technicalities (not having commitment papers, Affidavit of prior civil actions). On 7/29/20 I sent a motion for the court to send me commitment papers so that I didn't repeat the same mistake. However, this judge refuses to acknowledge the motion, as a way of preventing me from filing a successful writ. It's been almost 2 months and the motion hasn't been answered (I have not waived any trial time limits). Further, the commitment papers has not been sent to me.

(4) Refusal to replace my standby Counsel (interest, bias, prejudice)

I filed numerous motions complaining about the conduct and ineffectiveness of my Standby Counsel and I requested to have him removed from my case. The even tried to waive his Counsel. I intend to subpoena him for the suppression hearing and trial. This judge refuses to remove him because there is a plot to have him take over the case and intentionally lose the case. Her interest is to see my go to prison, she is not impartial and her rulings are in furtherance of a conspiracy against me. By refusing to remove him, she is denying me of my 5th Amendment right to call him as a witness.

(5) Judge Coogrove is conspiring to unconstitutionally remove me from this case so that I can be sent to prison by Standby Counsel who will intentionally lose. The groundwork she has laid to accomplish this, is a very prejudicial and unconstitutional order rendered on August 17, 2020. After the journal entry came out on 7/15/20, I filed a interlocutory appeal with The 9th Dist. Appellate Court because I believe that the rulings are of grave concern and need addressed before I'm wrongfully convicted. The 9th Dist. dismissed it on 8/13/20 and now it's in the Supreme Court of Ohio 20-1030, but, because of the recent order, I'm afraid to send notice of the 9th Districts refusal to certify the conflict, and send my merit brief. The order accuses me of filing frivolous appeals with the sole purpose to delay the case indefinitely, and threatens to remove me from representing myself, if I don't submit all my filings to her first for written approval. The order is a violation of Art. IV §2(3) and the 6th and 14th Amendment. The purpose is to obstruct my ability to challenge her prejudicial and unconscionable rulings against me and to lay a trap to remove me from the case so that I can be handed over to Counsel who won't be for me. This judge and this court was fine with me filing all the motions I desired as long as they were filed with her and she could control the results, but, as soon as I filed my very first appeal I get restrictions placed on me that are contrary to the Constitution. She cited the amount of motions I filed as an attempt to delay. However, it's this entire County who delays by amount of motions I filed as an attempt to delay. However, it's this entire County who delays by refusing to transport inmates even though this [5] Supreme Court has authorized it. Further, the motions didn't delay anything because H.B. 197 suspended the statutory time limits, and when that ended the court continued its delay by misc order 8000 200, which is no longer Constitutionally justified and hasn't been for months. On 8/15/20 I sent a notice of appeal to the Supreme Court (20-1030), but, hadn't received the 8/17/20 order at that time. (Standby Counsel would later inform me). I didn't get proper notice til 9/1/20 of the order. However, I had already had the notice of appeal in the mailbox. On 9/2/20 I sent a request to file any documents I needed to file with the current appeal (20-1030) to the Summit County Court of Common Pleas and requested to file writs because of the order. On 9/10/20 I submitted my merit brief to such court also to get approval to send it, along with the 9th Districts refusal to certify conflict (notice). It was sent back on 9/14/20 without any approval and with a deceptive notice from the clerk to file with the Supreme Court. I know as soon as I send it she will remove me from representing myself. That's the purpose of the order. Railroad me now, make me appeal it later from prison. She knows her actions are contrary to the law. The order is a trap because she knows I still have other documents to file with the appeal (20-1030) such as notice of the 9th Dist. determination denying the motion to certify a conflict and my merit brief.

(6) Interest, prejudice

Unreasonable and unjustifiable amount of time to rule on my motions

Since Judge Cosgrove has been assigned to my case, she has been very unwilling to rule on my motions in a reasonable time frame and contrary to the spirit of the Speedy-Trial statutes. Because she does not serve the interest of justice with my particular case, and her interest is with the furtherance of this court's agenda, she has continually prejudiced me by intentionally causing undue delay. She is a visiting, semi-retired judge and does not have many cases. There's no good reason to take as long as she does to rule on [my] motions. The following are still unanswered motions and the dates in which I mailed them off:

- (1) Objection to trial court's previous ruling Holding in Abeyance my offer of stipulation to prior conviction (6/30/20) now just "taken under advisory".
- (2) Motion to sever the case from co-defendant who has agreed to testify on me (6/30/20), never answered.
- (3) Motion to sever counts (6/18/20) which is "taken under advisory" still.
- (4) Motion to dismiss for prosecutor misconduct (7/13/20)
- (5) Court order for copies (7/20/20)
- (6) Commitment papers (7/29/20)
- (7) Request limiting instruction, objection to being denied bond reduction due to high risk Covid-19 concerns (8/5)
- (8) Motion to dismiss pursuant to R.C. 2911.01 (8/7/20)
- (9) Motion to waive standby counsel, objection to 7/15/20 order, motion to remove private info from motion filed due to Covid-19 concerns which contains private information (8/24/20)
- (10) Request to file documents with Supreme Court of Ohio (20-1030) pursuant to the prejudicial 7/15 order
- (11) Request to file my merit brief in the current appeal in the Supreme Court (20-1030) and a status hearing (9/8/20).

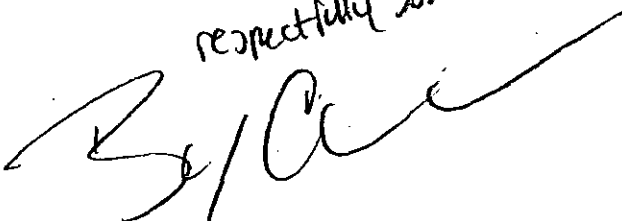
Conclusion

I have not waived any trial time limits and since this court's agenda is to delay the proceedings indefinitely, Judge Cosgrove is taking an extended period of time to rule on my motions which are tolling my time. Summit County does not want to conduct trials which is clear by their actions. Judge Cosgrove has been instrumental in implementing the agenda of Summit County and she is bias and partial in favor of the prosecutor. Her rulings against me has been unconscionable and unconstitutional.

I declare that the things mentioned are true and correct and that I am competent to testify to matters asserted.

CERTIFICATE OF SERVICE

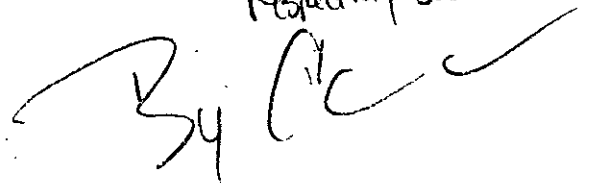
I certify a copy was sent to Judge Patricia Cosgrave at
209 S. High St. AKRON OH 44308 on this 21 day of September
2020 US Mail.

respectfully submitted


CERTIFICATE OF SERVICE

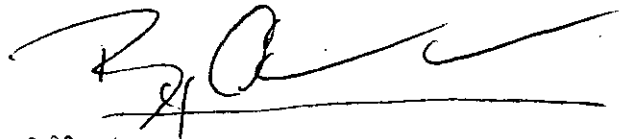
I certify a copy was sent to Don Sellers at 53 University Ave. Alameda 44308 on this 21 day of September 2020. U.S. mail. And John Chapman at 631 W. Exchange St. Alameda 44302

respectfully submitted

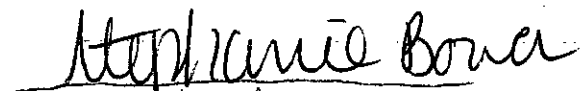
By 

In the Supreme Court of Ohio

The matters contained in this Affidavit are true and correct to the best of my knowledge. Since Judge Cassin has taken over the case on 10/1/2020, she has not been impartial. She denies almost every motion I file and does not comply with the motions she "grants." She has taken prejudicial amounts of time to rule on my motions, if she's even ruled on them. As soon as I filed my appeal, she issued a order to block me and to set a trap to remove me from representing myself. I am competent to testify to these matters. She won't even give me a status hearing to clarify and put on record her intent and how to abide by her orders, which are unconstitutional.


Affiant

Sworn to, or affirmed, and Subscribed in my presence this 16 day of September 2020.


Notary Public



STEPHANIE BOWER
Notary Public, State of Ohio
My Commission Expires

Feb. 12th 2025