

IN RE DISQUALIFICATION OF ATER.

BUTT v. BUTT.

[Cite as *In re Disqualification of Ater*, 159 Ohio St.3d 1223, 2020-Ohio-1576.]

Judges—Affidavits of disqualification—R.C. 2701.03—Guidelines for Assignment of Judges require reassignment of underlying case—Affidavit dismissed as moot.

(No. 20-AP-014—Decided March 2, 2020.)

ON AFFIDAVIT OF DISQUALIFICATION in Ross County Court of Common Pleas,
General and Domestic Relations Division, Case No. 16DR000268.

O’CONNOR, C.J.

{¶ 1} Plaintiff Melissa Jo Butt has filed an affidavit pursuant to R.C. 2701.03 seeking to disqualify Judge Michael M. Ater from the above-referenced case.

{¶ 2} In July 2016, Judge Ater recused himself from the underlying matter and requested the assignment of a visiting judge. The chief justice assigned retired Judge Leonard Holzapfel to preside over the case. In 2017, the court entered a divorce decree. In late 2019, the defendant reopened the case by filing a postdecree motion to modify spousal support. Ms. Butt thereafter filed this affidavit of disqualification against Judge Ater.

{¶ 3} Under this court’s *Guidelines for Assignment of Judges*, when a retired judge is assigned to “a specific case, the assignment shall continue until the conclusion of the case, including any post-judgment proceedings, unless and until the Chief Justice reassigns the case or withdraws the assignment.” *Id.* at section 5.02(A)(1),

<http://www.supremecourt.ohio.gov/JCS/judicialAssignment/judgeAssignGuide.pdf>

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f (accessed March 31, 2020) [<https://perma.cc/9FGD-MZ9X>]. Judge Holzapfel's certificate has not been withdrawn. However, Judge Holzapfel is no longer sitting by assignment as a retired judge. The underlying case will therefore be reassigned to another visiting judge.

{¶ 4} The affidavit of disqualification is dismissed as moot. The assignment of a visiting judge to preside over the underlying case will be addressed in a separate entry.
