

**IN RE DISQUALIFICATION OF SELMON.**

**HARTSHORN-MURDY v. WHITACRE.**

**[Cite as *In re Disqualification of Selmon*, 170 Ohio St.3d 1220,  
2022-Ohio-3999.]**

*Judges—Affidavits of disqualification—R.C. 2701.03—Underlying case is closed—  
Affidavits dismissed.*

(No. 22-AP-092—Decided September 8, 2022.)

ON AFFIDAVITS OF DISQUALIFICATION in Monroe County Court of Common  
Pleas, General and Domestic Relations Division, Case No. 2021-038.

---

**O’CONNOR, C.J.**

{¶ 1} Felice L. Harris, counsel for the respondent, has filed an original and an amended affidavit pursuant to R.C. 2701.03 and Article IV, Section 5(C) of the Ohio Constitution seeking to disqualify Judge Julie R. Selmon from the above-referenced case, in which a civil stalking protection order has been entered against the respondent.

{¶ 2} Under R.C. 2701.03(A), the chief justice’s statutory authority to order disqualification of judges extends only to those matters in which “a proceeding [is] pending before the court.” Thus, “the chief justice cannot rule on an affidavit of disqualification when \* \* \* nothing is pending before the \* \* \* court.” *In re Disqualification of Hayes*, 135 Ohio St.3d 1221, 2012-Ohio-6306, 985 N.E.2d 501, ¶ 6; *see also In re Disqualification of Grossmann*, 74 Ohio St.3d 1254, 1255, 657 N.E.2d 1356 (1994) (R.C. 2701.03(A)’s “language clearly limits the authority of the Chief Justice in determining the existence of interest, bias, prejudice, or disqualification to matters pending before the court”). According to Judge Selmon, the underlying case is closed and nothing is pending. For her part, Ms. Harris has

failed to identify what, if anything, remains open in the case. Based on this record, there is no statutory or practical basis for disqualifying the judge from a seemingly closed case. *See, e.g., In re Disqualification of Kubilus*, 155 Ohio St.3d 1210, 2018-Ohio-5412, 120 N.E.3d 5, ¶ 3 (no authority to order a judge’s removal from closed traffic cases); *In re Disqualification of Sweeney*, 159 Ohio St.3d 1209, 2020-Ohio-1545, 148 N.E.3d 601, ¶ 2 (no authority to order a judge’s disqualification from an inactive case); *In re Disqualification of Selvaggio*, 156 Ohio St.3d 1301, 2019-Ohio-1826, 128 N.E.3d 264, ¶ 4 (the chief justice will not “decide an affidavit of disqualification based merely on the possibility of a remand from the court of appeals”).

{¶ 3} The affidavits of disqualification are therefore dismissed.

{¶ 4} In addition, Judge Selmon’s request to seal the petitioner’s handwritten journal submitted with the judge’s response to the affidavit of disqualification is granted. According to Judge Selmon, she sealed the journal in the underlying case, and she asserts that the journal should remain under seal to protect the petitioner’s privacy and safety. Because the document remains under seal in the trial court, it shall remain under seal in this court. *See In re Disqualification of Paschke*, 165 Ohio St.3d 1207, 2021-Ohio-3236, 175 N.E.3d 590, ¶ 6 (“An affidavit-of-disqualification proceeding is not the appropriate forum in which to determine whether a trial court properly placed a document under seal”). Pursuant to S.Ct.Prac.R. 3.02(A)(1)(b), it is ordered that the clerk of this court seal from the public and from the parties and counsel in the underlying case the handwritten journal submitted with Judge Selmon’s response to the affidavit of disqualification.