

**IN RE DISQUALIFICATION OF ADKINS.**

**THE STATE OF OHIO V. MESSIAH**

[Cite as *In re Disqualification of Adkins*, 2026-Ohio-5890.]

*Judges—Affidavits of disqualification—R.C. 2701.03—A person with a power of attorney over a criminal defendant who is not the defendant’s attorney-at-law does not have standing to file an affidavit of disqualification—Affiant does not have standing to file—Affidavit dismissed.*

(No. 25-AP-137—Decided September 17, 2025.)

ON AFFIDAVIT OF DISQUALIFICATION in Montgomery County Court of Common Pleas, General Division, Case No. 2023 CR 01380/4.

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**KENNEDY, C.J.**

{¶ 1} Shannon Kiko Lynn Harris, defendant Icesse Messiah’s power of attorney, has filed an affidavit of disqualification on Messiah’s behalf pursuant to R.C. 2701.03 seeking to disqualify Judge Dennis J. Adkins of the Montgomery County Court of Common Pleas, General Division, from presiding over the underlying criminal case. The judge was not asked to file a response.

{¶ 2} As explained below, Harris does not have standing to submit an affidavit of disqualification. Therefore, the affidavit of disqualification is dismissed. The case shall proceed before Judge Adkins.

**Trial-Court Proceedings**

{¶ 3} Harris has power of attorney over Messiah, meaning that Harris is her attorney-in-fact. *See Disciplinary Counsel v. Coleman*, 2000-Ohio-288, ¶ 6.

{¶ 4} On August 22, 2025, Messiah was convicted on four counts of murder, two counts of aggravated burglary, two counts of felonious assault, and one count of burglary. Judge Adkins scheduled sentencing for September 24. Messiah and

defense counsel both filed motions for defense counsel to withdraw from the representation. Although the judge agreed that withdrawal of counsel was appropriate, he decided in a September 8th entry that defense counsel would continue to represent Messiah at sentencing.

{¶ 5} Harris filed the affidavit of disqualification on September 16, 2025.

#### **Affidavit-of-Disqualification Proceedings**

{¶ 6} R.C. 2701.03(A) provides that “[i]f a judge of the court of common pleas allegedly is interested in a proceeding pending before the court, allegedly is related to or has a bias or prejudice for or against a party to a proceeding pending before the court or a party’s counsel, or allegedly otherwise is disqualified to preside in a proceeding pending before the court,” then any party or the party’s counsel may file an affidavit of disqualification with the clerk of this court.

{¶ 7} Before addressing Harris’s allegations, the affidavit of disqualification raises a preliminary question: whether a person with a power of attorney over a criminal defendant has standing to file an affidavit of disqualification. The answer to that question is no.

#### **Standing to File an Affidavit of Disqualification**

{¶ 8} Standing to file an affidavit of disqualification is conferred by statute. *In re Disqualification of Gallagher*, 2023-Ohio-2977, ¶ 26. As stated above, the plain and unambiguous language of R.C. 2701.03(A) provides that “any party to the proceeding or the party’s counsel may file an affidavit of disqualification with the clerk” of this court. Chief justices “have ‘strictly enforced’ this statutory language and have consistently found that ‘individuals who do not qualify as a “party” or “party’s counsel” do not have standing to file an affidavit of disqualification.’” *Gallagher* at ¶ 26, quoting *In re Disqualification of Grendell*, 2013-Ohio-5243, ¶ 2, quoting R.C. 2701.03(A); *see also In re Disqualification of Leach*, 2023-Ohio-4776, ¶ 4.

{¶ 9} “In general, a ‘party’ is defined as ‘[o]ne by or against whom a lawsuit is brought; anyone who both is directly interested in a lawsuit and has a right to control the proceedings, make a defense, or appeal from an adverse judgment.’” *In re Disqualification of Berhalter*, 2023-Ohio-4881, ¶ 21, quoting *Black’s Law Dictionary* (11th Ed. 2019).

{¶ 10} In addition to allowing a party to file an affidavit of disqualification, R.C. 2701.03 allows a party’s attorney-at-law to file an affidavit of disqualification. For purposes of R.C. 2701.03(A), a “party’s counsel” includes counsel of record in the underlying case from which the judge’s disqualification is sought or an attorney retained by a party in the underlying case to file an affidavit of disqualification in this court. *Gallagher*, 2023-Ohio-2977, at ¶ 29-34.

{¶ 11} A person holding a power of attorney historically has not been considered an attorney-at-law who can appear on behalf of a client in court. *Coleman*, 2000-Ohio-288, at ¶ 6. The General Assembly codified that rule in R.C. 4705.01, which provides the following:

No person shall be permitted to practice as an attorney and counselor at law, or to commence, conduct, or defend any action or proceeding in which the person is not a party concerned, either by using or subscribing the person’s own name, or the name of another person, unless the person has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules.

{¶ 12} Accordingly, only an attorney-at-law, not an attorney-in-fact, may prepare and pursue legal filings and proceedings. *Ohio State Bar Assn. v. Jackim*, 2009-Ohio-309, ¶ 6-7. The practice of law “embraces the preparation of pleadings and other papers incident to actions . . . on behalf of clients before judges and courts,

and in addition conveyancing[ and] the preparation of legal instruments of all kinds.” *Land Title Abstract & Trust Co. v. Dworken*, 129 Ohio St. 23 (1934), paragraph one of the syllabus.

{¶ 13} Here, Harris states that she is Messiah’s power of attorney. That does not make her a party to the criminal case. Moreover, because Harris is not an attorney-at-law, she cannot file an affidavit of disqualification on Messiah’s behalf because she is prohibited from representing her in legal proceedings.

{¶ 14} Consequently, the affidavit of disqualification is dismissed.

**Conclusion**

{¶ 15} Harris does not have standing to submit an affidavit of disqualification on behalf of Messiah. Therefore, the affidavit of disqualification is dismissed. The case shall proceed before Judge Adkins.