

**IN RE DISQUALIFICATION OF CARR.  
THE CITY OF CLEVELAND v. MEDLIK.**

[Cite as *In re Disqualification of Carr*, 167 Ohio St.3d 1230, 2022-Ohio-2118.]  
*Judges—Affidavits of disqualification—R.C. 2701.03 and 2701.031—Underlying case is closed and judge therefore lacks jurisdiction to preside over it—Affidavit dismissed.*

(No. 22-AP-011—Decided March 17, 2022.)

ON AFFIDAVIT OF DISQUALIFICATION in Cleveland Municipal Court Case No.  
2014 TRC 005885.

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**O’CONNOR, C.J.**

{¶ 1} Ronald J.H. O’Leary, counsel for the defendant, has filed an affidavit pursuant to R.C. 2701.03 and 2701.031 and Article IV, Section 5(C) of the Ohio Constitution seeking to disqualify Judge Pinkey S. Carr from the above-referenced case.

{¶ 2} Mr. O’Leary alleges that because of his past interactions with Judge Carr, a reasonable person would question her ability to fairly and impartially preside over the matter.

{¶ 3} Judge Carr submitted a response to the affidavit and requests that it be denied. She states that upon receiving a copy of Mr. O’Leary’s request, she removed any warrant block associated with the defendant’s case. According to Judge Carr, the underlying case is now closed and she has no jurisdiction over the matter. She also states that the defendant has no other cases pending before her.

{¶ 4} The chief justice’s statutory authority to disqualify judges extends only to those matters in which “a proceeding [is] pending before the court.” R.C. 2701.03(A). “[T]he chief justice cannot rule on an affidavit of disqualification

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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. According to Judge Carr, the underlying case is closed and she has no jurisdiction to preside over the matter. Based on this record, there is no statutory or practical basis to disqualify the judge from the 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).

{¶ 5} Judge Carr is reminded that under R.C. 2701.03(D)(1), if the clerk of this court accepts an affidavit of disqualification for filing, “the affidavit deprives the judge against whom the affidavit was filed of any authority to preside in the proceeding until the chief justice of the supreme court, or a justice of the supreme court designated by the chief justice, rules on the affidavit.” A judge’s ruling during the pendency of an affidavit of disqualification could be evidence of bias. *See In re Disqualification of Celebrezze*, 74 Ohio St.3d 1242, 657 N.E.2d 1348 (1992). Despite Judge Carr’s actions during the pendency of the affidavit of disqualification, because the underlying case is closed, there is no reason to now remove her.

{¶ 6} The affidavit of disqualification is dismissed.

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