

[Cite as *In re Disqualification of Swenski*, \_\_\_ Ohio St.3d \_\_\_, 2021-Ohio-113.]

**IN RE DISQUALIFICATION OF SWENSKI.**

**ALLEN v. ADDI.**

[Cite as *In re Disqualification of Swenski*, \_\_\_ Ohio St.3d \_\_\_,  
2021-Ohio-113.]

*Judges—Affidavits of disqualification—R.C. 2701.03—Affiant failed to demonstrate bias or prejudice by judge—Disqualification denied.*

(No. 21-AP-002—Decided January 11, 2021.)

ON AFFIDAVIT OF DISQUALIFICATION in Lorain County Court of Common Pleas,  
Domestic Relations and Juvenile Division, Case No. 18DR084392.

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**O’CONNOR, C.J.**

{¶ 1} Plaintiff Benjamin P. Allen has filed an affidavit pursuant to R.C. 2701.03 and the Ohio Constitution, Article IV, Section 5(C), seeking to disqualify Judge Lisa I. Swenski from the above-referenced divorce case. Mr. Allen has filed three previous affidavits of disqualification against Judge Swenski—all of which were denied. *See* Supreme Court case Nos. 20-AP-043, 20-AP-065, and 20-AP-074.

{¶ 2} Mr. Allen alleges that Judge Swenski should be removed because she destroyed exhibits in the underlying case. Mr. Allen raised the same allegation in his first affidavit of disqualification. After considering Judge Swenski’s response to the affidavit, the allegation was rejected. *See In re Disqualification of Swenski*, \_\_\_ Ohio St.3d \_\_\_, 2020-Ohio-4614, \_\_\_ N.E.3d \_\_\_. Mr. Allen raised the allegation again in his third affidavit of disqualification. It was explained to him that because the chief justice had already considered the allegation, it would not be addressed again. Mr. Allen was also cautioned that the filing of repeated and

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unsubstantiated affidavits is contrary to the purpose of R.C. 2701.03 and a waste of judicial resources. *See* Supreme Court case No. 20-AP-074.

{¶ 3} In his present affidavit, Mr. Allen submitted an exhibit that he appears to believe substantiates his allegation that Judge Swenski destroyed evidence. The exhibit, however, is not proof that Judge Swenski tampered with evidence or that she should be disqualified.

{¶ 4} The affidavit of disqualification is therefore denied.

{¶ 5} “The statutory right to seek disqualification of a judge is an extraordinary remedy not to be used in a frivolous manner. Indeed, the filing of frivolous, unsubstantiated, or repeated affidavits of disqualification is contrary to the purpose of R.C. 2701.03 and a waste of judicial resources.” *In re Disqualification of Browne*, 136 Ohio St.3d 1279, 2013-Ohio-4468, 996 N.E.2d 944, ¶ 8; *see also In re Disqualification of Stucki*, \_\_\_ Ohio St.3d \_\_\_, 2020-Ohio-5326, \_\_\_ N.E.3d \_\_\_ (sanctioning a litigant after he ignored an admonition warning him against filing frivolous affidavits of disqualification). Mr. Allen has now filed four meritless affidavits of disqualification in less than seven months. Three of those affidavits involved the same unsubstantiated allegation. Accordingly, it is sua sponte ordered that Mr. Allen is prohibited from filing any further affidavits of disqualification relating to *Allen v. Addi*, Lorain C.P. No. 18DR084392, without first obtaining leave. Any request for leave shall be submitted to the clerk of this court for the chief justice’s review.

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