

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
OF THE STATE OF OKLAHOMA, IN AND FOR STEPHENS COUNTY

FILED DISTRICT COURT  
Stephens County, Okla.  
JAN 20 2026  
MELODY HARPER  
Court Clerk

THE STATE OF OKLAHOMA,  
Plaintiff,

v.

Case No. ~~CM-2025-529~~

Case No. CM-2025-00530

JOSE M. DECASTRO,  
Defendant.

**DEFENDANT'S MOTION TO DISQUALIFY PROSECUTOR**

**(Motion to Disqualify District Attorney Dan Jacobsma)**

**COMES NOW** Defendant Jose Maria DeCastro, appearing pro se, and respectfully moves this Court to disqualify District Attorney Dan Jacobsma from further prosecution of these matters. The conduct of the prosecuting authority raises substantial questions about whether Defendant can receive a fair prosecution, and whether the integrity of the judicial process has been compromised.

**I. FACTUAL BACKGROUND**

1. On September 8, 2025, the alleged incident giving rise to these charges occurred at the Duncan Police Department.
2. On September 9, 2025, Detective Suzannahe Smith of the Duncan Police Department swore a Probable Cause Affidavit before a notary.
3. At the time Detective Smith swore the affidavit, the Stephens County District Attorney's Office (District 6) had requested recusal from this matter. No prosecutor had been assigned to authorize or review the investigation.
4. On September 16, 2025—one week after the affidavit was sworn—the Oklahoma Attorney General appointed Dan Jacobsma, District Attorney for District 3, as Special Prosecutor in this matter (AG Case No. 25-02241).
5. The affidavit remained unfiled for approximately three months.
6. On December 10, 2025, Dan Jacobsma signed the Information in this case, swearing under oath: "I, the undersigned, being duly sworn on my oath, declare that the statements set forth in the above information, and in review of the Probable Cause Affidavit by the arresting officer contained in the court file, are true and correct to the best of my knowledge and belief."
7. The arrest warrant was issued on December 10, 2025.
8. The Attorney General's letter appointing Jacobsma was not filed with this Court until December 26, 2025—sixteen days after the warrant was issued.

9. Two separate case numbers have been assigned to identical charges arising from the same incident: Case No. CM-2025-529 and Case No. CM-2025-00530. Both were filed on December 10, 2025, both allege three counts of Loiter In/Injure/Molest Motor Vehicle under 21 O.S. § 1787, and both are signed by Dan Jacobsma.

## **II. LEGAL STANDARDS**

10. A court has inherent authority to disqualify a prosecutor when necessary to protect a defendant's due process rights or to preserve the integrity of the judicial process. *Young v. United States ex rel. Vuitton et Fils S.A.*, 481 U.S. 787, 809 (1987).

11. The Oklahoma Rules of Professional Conduct, Rule 3.8, impose special responsibilities on prosecutors, including the duty to refrain from prosecuting charges the prosecutor knows are not supported by probable cause.

12. Rule 8.4 of the Oklahoma Rules of Professional Conduct provides that it is professional misconduct for a lawyer to “engage in conduct involving dishonesty, fraud, deceit or misrepresentation” or to “engage in conduct that is prejudicial to the administration of justice.”

13. A prosecutor's oath that statements are “true and correct to the best of my knowledge and belief” carries legal and ethical weight. It represents that the prosecutor has exercised independent judgment in reviewing the charges and supporting evidence.

## **III. GROUNDS FOR DISQUALIFICATION**

### **A. Adoption of Pre-Authorization Affidavit Without Independent Review**

14. Dan Jacobsma swore under oath that the statements in the Information and Probable Cause Affidavit were “true and correct to the best of my knowledge and belief.”

15. However, the Probable Cause Affidavit was created on September 9, 2025—one week before Jacobsma was appointed to this case. Jacobsma had no involvement in the investigation, no opportunity to direct or supervise the preparation of the affidavit, and no authority over the matter when the affidavit was sworn.

16. The question arises: On what basis did Jacobsma swear that these statements were true to his “knowledge and belief”? What independent verification did he conduct before adopting an affidavit prepared entirely without his involvement?

17. If the affidavit was adopted without independent review, the oath may not reflect the exercise of independent prosecutorial judgment required by law.

### **B. Failure to File Appointment Before Seeking Warrant**

18. Jacobsma sought and obtained an arrest warrant on December 10, 2025. However, his appointment as Special Prosecutor was not filed with this Court until December 26, 2025.

19. At the time the warrant issued, there was no documentation of record establishing Jacobsma's authority to prosecute this case. The Court was asked to issue an arrest warrant based on an Information signed by a prosecutor whose authority was not established in the court file.

### **C. Unexplained Duplicate Case Filings**

20. Jacobsma filed two separate cases—CM-2025-529 and CM-2025-00530—containing identical charges for the same alleged incident on the same date.

21. Filing duplicate criminal charges for a single incident raises serious concerns. It may constitute prosecutorial overreach, create confusion in the court record, and potentially expose a defendant to double jeopardy concerns.

22. No explanation has been provided for why two cases were filed. This irregularity further undermines confidence in the prosecutorial judgment exercised in this matter.

**D. Cumulative Effect on Integrity of Proceedings**

23. Taken together, these facts establish a pattern of procedural irregularities that undermine confidence in the fairness and integrity of this prosecution:

- a. An affidavit sworn before any prosecutor had authority;
- b. A three-month delay before charges were filed;
- c. An oath by the prosecutor adopting statements he had no role in creating;
- d. A warrant issued before the prosecutor's authority was of record; and
- e. Duplicate cases filed with no explanation.

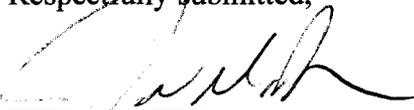
24. Defendant is entitled to a prosecution conducted with integrity and transparency. The cumulative effect of these irregularities creates a reasonable question as to whether this prosecution can proceed fairly under current counsel.

**IV. PRAYER FOR RELIEF**

WHEREFORE, Defendant respectfully prays that this Court:

- A. Disqualify Dan Jacobsma from further prosecution of these matters;
- B. Order the Oklahoma Attorney General to appoint substitute counsel;
- C. Order the State to show cause why the duplicate Case No. CM-2025-00530 should not be dismissed; and
- D. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,



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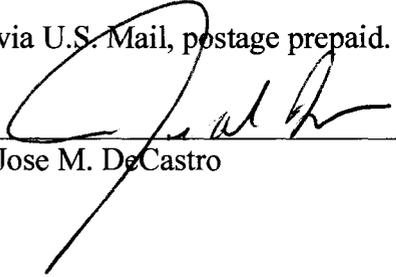
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**CERTIFICATE OF SERVICE**

I hereby certify that on 01-13, 2026, a true and correct copy of the foregoing was served upon:

Dan Jacobsma, District Attorney  
District 3 District Attorney's Office  
101 N. Main Street, Suite 104  
Altus, OK 73521

via U.S. Mail, postage prepaid.

  
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Jose M. DeCastro