

IN THE SUPERIOR COURT OF DeKALB COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,

Plaintiff,

v.

DIONTE CASTRO,

Defendant.

INDICTMENT No: 24CR3102-3
*(motion also encompasses all other
criminal indictments listed in
Exhibit A).*

JUDGE YOLANDA C.
PARKER-SMITH

AFFIDAVIT OF HON. SHERRY BOSTON,
DeKALB JUDICIAL CIRCUIT DISTRICT ATTORNEY,
IN SUPPORT OF MOTION TO RECUSE

The undersigned Notary Public, as an officer duly commissioned by the laws of the State of Georgia, witnessed **DeKalb Judicial Circuit District Attorney Sherry Boston** give the following statement on July 27, 2026, after first being duly sworn:

— 1 —

I, Sherry Boston, am over the age of eighteen years and am a resident of the State of Georgia; I am of sound mind and body and suffer from no legal disabilities; I am an attorney licensed to practice law in Georgia and currently serve as the DeKalb Judicial Circuit's elected District Attorney; and I have personal knowledge of the facts set forth in this affidavit and could testify completely to the same if called as a witness in court.

The Judicial Qualifications Commission (JQC) has initiated disciplinary proceedings against DeKalb County Superior Court Judge Yolanda C. Parker-Smith by filing Formal Charges in JQC Inquiry No S26Z1811 on July 20, 2026. Those formal charges detail three instances where the JQC has alleged that Judge Parker-Smith’s conduct violates Georgia’s Code of Judicial Conduct. Two of those three instances involve my office, with members of my staff involved either directly as the State’s attorneys or indirectly as part of the Grand Jury Team. Although my office was not part of the JQC investigation leading to these charges and had no advance knowledge of the matter, members of my staff are necessary witnesses for all three of Judge Parker-Smith’s alleged violations.

One of the JQC’s formal charges, based on Complaint No 2023-518 (*see* Formal Charges at 5-9, paras. 15-28), describes an instance where Judge Parker-Smith directly threatened to jail me and two of my Assistant District Attorneys on a contempt action for not complying quickly enough with an order she had no authority to give.

The Formal Charges set out most of the basic facts, and I certify that to the best of my knowledge, the events they relate are accurate. However, resolving the threatened contempt action was more complicated than the JQC’s recitation implies, and raised significant concerns about Judge Parker-Smith’s ability to be impartial in any matter involving my office. The following facts are all supported by

documentary or video evidence that can be produced at an evidentiary hearing.¹

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The events leading to Judge Parker-Smith's threat of contempt began at a virtual, recorded calendar call on May 18, 2023. The State intended to *nolle prosequi* one of the cases on that calendar, and had previously indicated that the motion should be available in Judge Parker-Smith's electronic queue for signature. For some reason, that did not occur – and the assigned ADA was on leave in Europe. The supervising ADA covering the calendar, who was unable to verify what steps the assigned ADA had taken, asked to continue the case until another calendar on June 29 and then submit the *nolle prosequi* in advance of that court date so the defendant would not have to return. Judge Parker-Smith rejected that proposal because she felt it would leave an open case “over [the defendant's] head” for “a whole month,” and required the State to make a decision by the end of the day.

As the JQC's filing notes, Judge Parker-Smith indicated “somebody's going to be in trouble” if a *nolle prosequi* was not submitted by 5:00 PM local time on May 18 and threatened that the out-of-country ADA would “come across the pond into bars” if she did not timely submit the *nolle prosequi* from another continent and time zone. According to Judge Parker-Smith, “...if [that ADA] don't

¹ To the extent there are any concerns regarding my personal knowledge of what occurred before Judge Parker-Smith brought me into the matter personally, I certify that I have viewed both the transcript and video recording of the May 18 proceedings, and the affected ADAs – both of whom are still in my office – are available to testify about their firsthand experiences at any hearing on this motion.

go to jail, then [the supervising ADA] will take her place...you better hope that [*nolle prosequi*] comes through electronic today.”

That evening after court had adjourned, Judge Parker-Smith sent the parties the following email:

The time is now 7:21 PM and I am still waiting on the NP [*nolle prosequi*] for the above case. The State made an announcement that the case was to be NP'd and requested that the case be reset to June 29th. Meanwhile, [the defendant] would have this open felony case hanging over her for the next forty two days. The Court found that absolutely unacceptable.

The Court was abundantly clear about the NP being submitted by the State today by the close of business. The Court was advised that it would be done by close of business. It was not done. The Court expects all parties to adhere to its orders or face consequences for failure to do so. The State is no different. ²

² Notably, Judge Parker-Smith had no legal authority to **order** the State to file a *nolle prosequi* in the first place. A trial court must **consent** to the State's motion for *nolle prosequi* before it terminates a case, but all the authority to **file** that motion lies with the State and cannot be compelled. See O.C.G.A. § 17-8-3.

Along similar lines, the State's proposal to reset the matter and submit the *nolle prosequi* well before the next court date was entirely consistent with O.C.G.A. § 17-8-3, which merely requires the State to notify the defendant within 30 days of filing a *nolle prosequi*.

Because Judge Parker-Smith ultimately rescinded the threatened contempt action, these issues were never litigated.

The JQC's filing correctly indicates that the out-of-country ADA sent an email the next day informing Judge Parker-Smith that she had resubmitted the *nolle prosequi*. This email was not a cursory response. In fact, the affected ADA explained the following:

I have resubmitted the *nolle pros* order to the queue. I am currently in Europe for an event and have limited access to wifi because I am in the mountains. Without strong wifi I am unable to connect to the VPN to access [the Odyssey case management system].
I tried to push it through the queue last night (around 6PM Eastern time [on May 18]), and my signal must not have been strong enough. I took a taxi to a nearby town this morning to get better wifi and have it pushed through again.

Despite receiving this reasonable explanation for the delay and signing the resubmitted *nolle prosequi* a few hours later, Judge Parker-Smith issued an order the following Monday directing the State's representatives to show cause "why they should not be held in contempt for lying to this Court and failing to submit the *nolle pros* as stated."

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Judge Parker-Smith did not limit her May 22, 2023 "show cause order" to the ADAs who appeared in her courtroom on May 18. She also included *me* in her order in my capacity as District Attorney, and directed me to appear and face a possible contempt action as well. In addition, Judge Parker-Smith physically sent DeKalb County Sheriff

deputies to my office in the courthouse so they could personally serve me with a copy of the “show cause order.”³

— 6 —

After being served with the “show cause order,” I and my ADAs filed a motion to recuse Judge Parker-Smith from the contempt action, which a different judge denied on May 31, 2023. This returned authority to Judge Parker-Smith, who promptly rescinded the “show cause order” and cancelled its hearing on June 6, 2023.

Judge Parker-Smith offered no explanation or basis whatsoever for either issuing or rescinding her “show cause order.” The June 6 order terminating the matter simply detailed the procedural history of the State’s motion to recuse and stated, “Upon further review, this Court hereby RESCINDS the original Show Cause Order and deems that this matter is now closed.” On August 1, 2023, Judge Parker-Smith ordered that all documents associated with the “show cause order” be sealed from public view.

— 7 —

The ultimate resolution of this matter came only after I and my ADAs retained private counsel to represent us in a potential contempt action. Judge Parker-Smith only relented from her threat of contempt after our counsel engaged in extensive off-the-record discussions with

³ In my experience, this type of personal service at my office is a very unusual choice for a judge to make. I do not know and cannot explain why Judge Parker-Smith felt this extraordinary step was necessary when practically every other court matter is handled through e-filing and electronic service.

Judge Parker-Smith's own attorney of record. My office was forced to incur attorneys' fees as a result of Judge Parker-Smith's actions.

— 8 —

Given how aggressively Judge Parker-Smith pursued the contempt matter outlined above, and given her total lack of explanation or justification for attempting to punish an oversight even after it was promptly corrected and she received an adequate and forthright explanation for what happened, any reasonable person could only conclude that she harbors an extrajudicial bias that interferes with her ability to exercise impartial judgment with respect to the District Attorney's Office.

Similarly, any reasonable person could only conclude that Judge Parker-Smith's bias and prejudice against me, the affected ADAs, and my entire staff would influence her decisions in any criminal case we prosecute before her. There are now serious and legitimate questions about whether her rulings are based solely on the information she learned during a case.

— 9 —

The JQC's July 20 filing of formal charges, which initiated a disciplinary proceeding that may adversely affect Judge Parker-Smith's tenure on the DeKalb County bench, has reignited public attention surrounding the events of May-June 2023. Media coverage surrounding the formal charges has directly named me as a target of Judge Parker-Smith's "show cause order," and the affected ADAs (one of whom is still assigned to Judge Parker-Smith's courtroom) face a

renewed and increased risk of differential treatment – favorable or unfavorable, either of which is problematic – now that the matter is being reexamined.

More importantly, the public discourse surrounding the JQC's charges cannot help but undermine any scintilla of confidence in Judge Parker-Smith's judicial impartiality. No reasonable person can watch proceedings in Judge Parker-Smith's courtroom without wondering what role the JQC inquiry or other external forces might play in her decisions. And the public now also knows that my ADAs are in the untenable position of being necessary witnesses against the very judge before whom they practice law at every calendar.

– 10 –

Based on a reasonable and objective review of the facts outlined in this affidavit, Judge Yolanda C. Parker-Smith' actions have demonstrated repeated and undeniable prejudice against me and my office. And given that members of my staff will likely be witnesses against her in disciplinary proceedings, it would be impossible for anyone to be confident that Judge Parker-Smith can be fair to the State in her criminal cases.

The current proceedings only serve to reignite and heighten that bias such that in the eyes of my office, the defense bar, the DeKalb County jury pool, and the general public, all pending and future criminal cases that my office prosecutes before Judge Parker-Smith carry an inevitable stain of doubt regarding her impartiality. This state of affairs will persist at least as long as the JQC Inquiry is pending, and

perhaps as long as Judge Parker-Smith remains on the DeKalb County bench and I remain the DeKalb Judicial Circuit's elected District Attorney.

FURTHER AFFIANT SAYETH NOT.

Sherry Boston

Hon. Sherry Boston,
District Attorney,
DeKalb Judicial Circuit

Sworn to and subscribed before me this
27th day of July, 2026,

Laura Hert

Notary Public

My Commission Expires April 25, 2028.

