

District Court Mesa County Justice Center 125 N Spruce St. Grand Junction, CO 81501	DATE FILED May 11, 2026 3:17 PM FILING ID: 52E84587CBE85 CASE NUMBER: 2022CR371
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff  v.  TINA PETERS, Defendant	▲ COURT USE ONLY ▲
John Case P.C. John Case, Colorado Reg. #2431 6901 S. Pierce St. #340 Littleton CO 80128 (303) 667-7407 brief@johncaselaw.com	Case No. 2022CR371  Division: 9/MDB
<p style="text-align: center;"><b>DEFENDANT’S MOTION FOR RECONSIDERATION OF ORDER DENYING  MOTION TO DISQUALIFY JUDGE MATTHEW BARRETT</b></p>	

Defendant Tina Peters, through counsel, moves the Court for reconsideration of its Order of April 27, 2026 (“Order”) denying Defendant’s Motion to Disqualify.

1. Defendant recognizes that motions to reconsider are generally disfavored and must show more than a disagreement with the court’s decision. Colorado Rule of Criminal Procedure 47, which governs motions in criminal cases, does not prohibit a motion to reconsider. C.R.CR.P. 57(b) provides that courts “shall look to the Rules of Civil Procedure and to the applicable law if no Rule of Criminal Procedure exists.” C.R.C.P. §121.1-15 (11) provides that a motion to reconsider “must allege manifest error of fact or law that clearly mandates a different result or other circumstance resulting in manifest injustice.”

2. As set forth below, the Order contains manifest errors of fact and law that clearly mandate a different result.

3. This Motion is supported by the Second Affidavit of Rev. Robert Babcox, attached hereto as Exhibit A.

4. A judge must disqualify himself if “a reasonable observer might have doubts about the judge’s impartiality.” *People ex rel. A.G.*, 262 P.3d 646, 650-(Colo. 2011)(underline added). The Verified Motion to Disqualify is supported by affidavits from two reasonable observers, attorney Michael Edminister (Ex. C), and Rev. Robert Babcox (Ex. D).

5. Michael Edminister is a practicing attorney in Ohio and Colorado who has defended criminal cases since 1987 (Ex. C, ¶ 2). This qualifies Mr. Edminister as a “reasonable observer” of sentencing hearings. Mr. Edminister made the following observations of Judge Barrett during the sentencing of Tina Peters:

Judge Barrett imposed consecutive sentences of incarceration totaling eight years and nine months on my client, and he denied bond pending appeal. Mrs. Peters was a non-violent, first-time offender with low LSI scores who was eligible for probation. The sentence shocked me because it was so severe compared to what other defendants receive in Mesa County and other courts where I represent criminal defendants.

More shocking than the sentence was Judge Barrett’s anger, and the language that he used to berate my client. Judge Barrett called Mrs. Peters “charlatan” because he disagreed with her publicly stated opinions on election fraud, which he referred to as “lies.”

Based on the severe sentence and the language Judge Barrett used towards my client, it was evident to me that Judge Barrett had personal animosity toward Mrs. Peters. A reasonable observer of the sentencing hearing would question whether Judge Barrett can be impartial in any further proceedings involving Mrs. Peters.

(Id. ¶¶ 3-5) (underline added). If the underlined statements by Mr. Edminister are accepted as true, then Judge Barrett must disqualify himself because a reasonable observer might

have doubts about the judge's impartiality, and because he displayed actual prejudice against Mrs. Peters.

6. "The facts set forth in affidavits supporting a motion to disqualify a judge are not subject to a trial court's inquiry, but are presumed to be true." *Smith v. District Court*, 629 P. 2d 1055, 1057, (Colo.1981). Here, Judge Barrett *said* that he accepted Mr. Edminister's affidavit as true (Order, pp. 9-10, 13), but at the same time he denied the obvious fact that the affidavits show partiality: "The factual allegations within Defendant's affidavits do not establish that I am personally prejudiced against Defendant or that my impartiality might reasonably be questioned." (Id. at 9). This violated the rule of *Smith* that affidavits are not subject to a trial court's inquiry, but are presumed to be true, and the rule of *A.G.* that disqualification is mandatory if "a reasonable observer might have doubts about the judge's impartiality."

7. Rev. Babcox holds a Bachelor of Art's degree in history from the University of Southern California, with studies in ancient civilizations. He retired from the U.S. Navy after 21 years. He served as Senior Pastor of Orchard Mesa Baptist Church for seventeen years from 2009 to 2026. He is the father of four adult daughters. He is the chief Chaplain for the Colorado State Patrol in Grand Junction. In that role, and as a pastor, Rev. Babcox has provided spiritual guidance, counseling, and support to law enforcement personnel, victims, offenders, and families involved in the criminal justice system. Rev. Babcox has observed many sentencing proceedings in Mesa County, including those involving violent crimes. (Ex. D, ¶¶ 2-5). These facts demonstrate that Rev. Babcox is a "reasonable observer."

8. Rev. Babcox made the following observations at the sentencing of Tina Peters:

It was apparent to me during the sentencing of Tina Peters that Judge Barrett feels animosity towards her. The unreasonable length of the sentence, and Judge Barrett's language and angry demeanor showed he has actual prejudice against her personally.

Based on my firsthand observations in the courtroom that day, combined with my years of experience in Mesa County courts as a chaplain and pastor, the contrast in sentencing and the nature of Judge Barrett's remarks cause me to question whether his impartiality might reasonably be questioned in any future proceedings involving Ms. Peters (such as resentencing, bond matters, or post-conviction relief).

As a spiritual leader in this community, I have witnessed how this case continues to affect public trust and division. In my judgment, assignment of fresh judicial eyes would serve the long-term integrity of the process and help our community move forward with confidence that justice is being dispensed fairly and equitably.

(Ex. D, ¶¶ 10-12)(underline added). If the underlined facts are true, they show actual prejudice against Mrs. Peters, and that reasonable observers like Rev. Babcox actually do question Judge Barrett's impartiality.

9. Instead of accepting Rev. Babcox's affidavit as true, Judge Barrett attributed bias to Rev. Babcox. At page 4, the Order states that Reverend Babcox is a "community support for Defendant." This statement of fact by the Court is not true. Rev. Babcox is not a supporter of Tina Peters. In fact, Rev. Babcox believes that Mrs. Peters is guilty. He has believed that Mrs. Peters is guilty since before her trial. (Ex. A, ¶ 3). Rev. Babcox believed that Mrs. Peters was guilty when he attended the sentencing hearing on October 3, 2024. (Id ¶ 4). He attended the sentencing hearing because "our community was divided over Tina Peters' case. I wanted to see her receive a just sentence from the Court." (Id).

10. At the sentencing hearing, Rev. Babcox sat on the opposite side of the courtroom from Tina Peters supporters, some of whom he recognized. Mrs. Peters' supporters sat behind

the defense table, on the left side of the center aisle. Rev. Babcox sat on the right side of the center aisle, on the same side as the prosecution table, near the video camera that recorded the proceeding. (Id ¶ 5).

11. Rev. Babcox has never met Judge Barrett. (Id ¶ 6). Since the two men are not acquainted, Rev. Babcox has “no idea how [Judge Barrett] could state as a fact that I am ‘a community support for Defendant.’” (Id).

12. By stating that Rev. Babcox is “community support for Defendant,” the Court implied that Rev. Babcox is biased in favor of Tina Peters, and therefore his affidavit can be discounted. This violated the rule of *Smith* that affidavits are not subject to a trial court’s inquiry, but are presumed to be true.

13. The prejudice of the trial judge against a party is disqualifying when it stems from an extrajudicial source and results in an opinion on the merits on some basis other than what the judge learned from his participation in the case. *United States v. Grinnell Corp.*, 384 U.S. 563, 583 (1966). If the Court was provided mistaken information that Rev. Babcox is a “community support for Defendant,” that information must have come from an extrajudicial source, and disqualification is mandatory. *Id.*

14. If the court invented its finding that Rev. Babcox is a “a community support for Defendant,” that intentional misstatement of fact is affirmative evidence of the Court’s bias against Mrs. Peters. Again, disqualification is mandatory.

15. Another manifest error appears at page 12 of the Order, where the Court stated:

Neither is Rev. Babcox assertion that he questions whether my impartiality might reasonably be questioned regarding Defendant’s case. These are subjective opinions related to the standard that must be applied for disqualification and they are not dispositive of my decision. Similarly, Rev.

Babcox's assertion that the case continues to affect public trust and division and 'fresh judicial eyes' would serve the judiciary's purpose do not form a basis for disqualification."

16. As Rev. Babcox points out in the attached Affidavit, it is a fact that many members of the Grand Junction community question Judge Barrett's impartiality based on his behavior at the sentencing hearing. (Ex. A, ¶ 7). This fact is not a "subjective opinion" as the Court claims on page 12 of the Order.

17. It is basic to our system of justice that a judge must be free of bias and partiality. *People v. District Court*, 560 P.2d 828, 831 (Colo. 1977). Public confidence in the judiciary depends upon the appearance of impartiality:

Nor can we conceive of anything of graver public concern than whether or not those charged with the commission of crime shall be tried before an impartial tribunal's free from prejudice and bias. The first ideal in the administration of justice is that the judge must be free from bias and partiality. Men are so agreed on this principle that any departure therefrom shocks their sense of justice. A party may be interested only that his particular case should be justly determined, but the state is concerned not only for that, but also that the judiciary shall enjoy an elevated rank in the estimation of mankind."

*Id.* at 831 (quoting *People ex rel Brewer v. District Court*, 152 P. 149, 150 – 51 (Colo. 1915).

18. Here, the Court did not accept Rev. Babcox's affidavit as a true statement of facts, and instead discounted Rev. Babcox as "a community support for Defendant." (Order p. 4). Instead of presuming the facts set forth in Mr. Edminister's affidavit and Rev. Babcox's first affidavit to be true, the Court mischaracterized the facts as "subjective opinions." (Order p. 12). These are manifest errors of fact and law that require reconsideration of the Motion to Disqualify.

For the foregoing reasons, Mrs. Peters requests that the Court reconsider its Order denying Defendant's Verified Motion to Disqualify Judge Barrett, and enter a modified Order granting the motion.

Respectfully submitted May 11, 2026,

*s/John Case*  
John Case #2431

**CERTIFICATE OF SERVICE**

I certify that on May 11, 2026, I filed and served the foregoing document electronically to the Court and attorneys of record:

*/s/John Case*

IN THE DISTRICT COURT IN AND FOR MESA COUNTY, STATE OF COLORADO  
THE PEOPLE OF THE STATE OF COLORADO,

Plaintiff,

v.

TINA MARIE PETERS,

Defendant.

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**Second Affidavit of Rev. Robert Babcox**

I, Rev. Robert Babcox, declare under penalty of perjury as follows:

1. I am over the age of 18 and competent to testify. I am not related to Tina Peters, I have not been compensated for this statement, and I make it voluntarily.
2. I reviewed Judge Barrett's Order Re: Defendant's Motion to Disqualify Judge Barrett dated April 27, 2026. I make this Affidavit to correct factual errors in the Order.
3. At page 4 of the Order, Judge Barrett said that I am "a community support for Defendant." I have not been a Tina Peters supporter since shortly after her election in 2018. I did not attend the trial. Based on what I have read and heard, I believe now and I believed before her trial that she is guilty of the crimes for which she was convicted.
4. I believed that Tina Peters was guilty on October 3, 2024, when I attended the sentencing hearing before Judge Barrett. I attended the sentencing hearing because our community was divided over Tina Peters' case. I wanted to see her receive a just sentence from the Court.
5. In the courtroom, I took a seat at the back of the section on the right side of the center aisle, on the same side of the courtroom as the prosecution table. I was near the video camera on a tripod that recorded the proceeding. Tina Peters supporters, some of whom I recognized, sat together on the left side of the center aisle behind the defense table.
6. I do not recall ever meeting Judge Barrett. Since he doesn't know me, I have no idea how he could state as a fact that I am "a community support for Defendant."
7. At page 12 of the Order Judge Barrett said that my "assertion that he questions whether my impartiality might reasonably be questioned" is a "subjective opinion." I have spoken with several members of the Grand Junction community, who I consider to be rational objective citizens, who, like me, question Judge Barrett's impartiality based on his behavior at the sentencing hearing.
8. Judge Barrett also said at page 12, "Rev. Babcox's assertion that the case continues to affect public trust and division and fresh 'judicial eyes' would serve the judiciary's purpose do not form a basis for disqualification." I know for a fact that Judge Barrett's behavior at the sentencing hearing continues to divide our community and causes many people to question his impartiality.
9. As stated, I do not know Judge Barrett in any other way other than the sentencing hearing so my comments should not be considered as a personal or professional attack.

