

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR OKALOOSA COUNTY, FLORIDA**

STATE OF FLORIDA

Case No. 46-2024-CF-002000-A

vs.

EDDIE LEE DURAN, Jr.
Defendant.

MOTION TO DISQUALIFY OR RECUSE TRIAL JUDGE WILLIAM F. STONE

COMES NOW the Defendant, EDDIE LEE DURAN JR., by and through undersigned counsel, and files this Motion to Disqualify or Recuse the Trial Judge and states as follows:

Defendant requests disqualification and recusal of trial Judge William F. Stone because he fears he will not receive a fair trial or hearing because of specifically described prejudice or bias of the Judge (see F.S. 38.10 and Fla. R. Jud. Admin. 2.330(d)(l)) as follows:

1. On September 11th, 2026, Judge Stone issued an Order denying the Defendant's Motion to Dismiss Pursuant to Immunity from Prosecution. In this Order he included language by his own admission "not legally relevant" which was also claimed "not part of the Court's analysis of the Motion to Dismiss." Judge Stone Writes "Defendant did not know when he was standing outside of apartment 1401 on May 3, 2024, that the person he would ultimately shoot and kill was a combat-decorated member of the United States AirForce who was well-respected and considered to be an exceptional athlete, student, and valued Ghost rider special missions aviator" with a footnote citing to an article from AIR & SPACE FORCES MAGAZINE published in May of 2024.

2. These improper unsolicited editorializing about the decedent's accomplishments, and reputation made within the Court's Order denying immunity constitute a legally sufficient basis for recusal because such comments would cause a reasonably prudent person to harbor a well-founded fear of not receiving a fair and impartial proceeding.
3. In reviewing this order the Defendant immediately called undersigned counsel with grave concerns about receiving a fair trial given the clear bias of the Court by taking alleged information and opinion, not from the record, but from apparently an article written about Fortson and adding it to the Order as a statement of fact. Commentary that clearly demonstrates the Court's personal interests and regard for the decedent to the detriment of Defendant's right to fair and impartial trial.
4. To put it in perspective if the State quoted the Court's comments listed above during closing arguments the Defense would have a legitimate basis for a mistrial. Here, on the eve of trial, the Court has added comments into the public record in a community with a high proportion of active and veteran service members. These Comments, as the Court admitted are not relevant to the order he drafted, but are highly prejudicial to Defendant's ability to receive a fair and impartial trial. These comments are not from a member of the public or even a party to the case but by the sitting Judge, whose Canons of Judicial Conduct make clear he shall not make any public comment that might reasonably be expected to affect its outcome or impair its fairness.
5. It is obvious that the State would have objected to, and rightfully so, any attempt by the defense to elicit similar testimony concerning Deputy

Duran's prior military service and accomplishments.

6. In accordance with case law and the Florida Rules of Judicial Administration, Rule 2.330, this Honorable Court shall only determine the legal sufficiency of this Motion and shall not pass on the truth of the facts alleged. If the Motion is legally sufficient, the Judge shall immediately enter an order granting disqualification and proceed no further in the action.
7. In order to determine the legal sufficiency of the Motion the Court need only to determine whether the facts alleged would place a reasonably prudent person in fear of not receiving a fair and impartial trial or hearing. The Court must take the facts alleged as true and must take the view from Petitioner's perspective.
8. There have been no other Motions to Disqualify filed in this cause.

WHEREFORE, Plaintiff, EDDIE LEE DURAN JR., respectfully requests Judge William F. Stone disqualify and recuse himself from this matter immediately.

VERIFICATION

I EDDIE LEE DURAN JR, being first duly sworn, state that I am a party to this action , that I have read the foregoing Motion to Disqualify and Recuse and know that contents thereof, and that the factual statements contained therein are true and correct to the best of my knowledge, information, and belief.


Signature, EDDIE LEE DURAN, JR.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been delivered via e-mail/e-service to the Office of the State Attorney at eservice@sao8.org on this 11th day of September, 2026.

Respectfully submitted,

AVERA & SMITH, LLP

/s/ John D. Whitaker

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