



Commonwealth of Massachusetts
STATE ETHICS COMMISSION

One Ashburton Place - Room 619
Boston, Massachusetts 02108

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Maria J. Krokidas
Chair

David A. Wilson
Executive Director

June 24, 2020

Legal Division
State Ethics Commission
Room 619
One Ashburton Place
Boston, MA 02108

Re: In re Joseph D. Early, Jr.

Dear Sir/Madam:

Enclosed please find an Order to Show Cause in the above referenced matter. A version in PDF format is also being provided by email in accordance with the Commission's Electronic Case Filing Procedures.

Sincerely,

/s/Candies Pruitt
Staff Counsel
Enforcement Division

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COMMONWEALTH OF MASSACHUSETTS
STATE ETHICS COMMISSION
JUN 24 PM 12:49

SUFFOLK, ss.

COMMISSION
ADJUDICATORY
DOCKET NO. 20-0004

IN THE MATTER

OF

JOSEPH D. EARLY, JR.

ORDER TO SHOW CAUSE

1. The State Ethics Commission ("Commission") is authorized by G.L. c. 268B to enforce G.L. c. 268A, the state conflict of interest law, and in that regard, to initiate and conduct adjudicatory proceedings.

2. On December 19, 2019, the Commission (a) found reasonable cause to believe that Joseph D. Early, Jr. ("Early") violated G.L. c. 268A, §§ 23(b)(2)(ii) and 23(b)(3), and (b) authorized the initiation of adjudicatory proceedings.

FACTS

3. In 2017, Early was the Worcester County District Attorney.

4. Early was the chief law enforcement officer in Worcester County.

5. On October 16, 2017, a Massachusetts State Trooper arrested the daughter of a Massachusetts judge ("Daughter") for operating under the influence of alcohol and drugs.

6. The arresting trooper's report described embarrassing statements by the Daughter and included quotes of sexually explicit statements he reported she made during the arrest. The report also quoted the Daughter's statement that her father was a judge.

7. The trooper's police academy training stressed the importance of including in an arrest report anything the suspect said, word-for-word, including insensitive language in direct quotes.

8. On October 17, 2017, the arrest report and a criminal complaint application were submitted to the Worcester District Court for a probable cause finding to issue a criminal complaint against the Daughter. A clerk magistrate found probable cause and the complaint issued.

9. The arrest report and complaint were then impounded by the Court.

10. On or about October 17, 2017, Early received a copy of the arrest report and called then State Police Colonel Richard McKeon ("McKeon") to alert McKeon to the embarrassing statements, including the Daughter's sexually explicit statements and statement that her father was a judge.

11. On or about October 18, 2017, Early advised McKeon that McKeon could revise the arrest report to remove the embarrassing statements, including the Daughter's sexually explicit statements and statement that her father was a judge.

12. Early had not previously contacted McKeon as Colonel regarding an operating under the influence of alcohol and drugs case or regarding statements made by an arrestee quoted in an arrest report.

13. On or about October 19, 2017, McKeon issued an order through the State Police chain of command that the arresting trooper remove the embarrassing statements, including the Daughter's sexually explicit statements and statement that her father was a judge. The arresting officer revised the arrest report.

14. McKeon ordered that the revised arrest report be delivered to the

Worcester County District Attorney's Office.

15. Early told Worcester County Senior First Assistant District Attorney Jeffrey Travers ("Travers") to expect the Daughter's revised arrest report from the State Police.

16. Early directed Travers to go to the Worcester County District Court Clerk's Office and replace the original report of the Daughter's arrest in the court's files with the revised arrest report.

LAW

§ 23(b)(2)(ii)

17. General Laws chapter 268A, § 23(b)(2)(ii) prohibits a state employee from knowingly, or with reason to know, using or attempting to use his official position to secure unwarranted privileges or exemptions for himself or others, which are of substantial value, and which are not properly available to similarly situated individuals.

18. As Worcester County District Attorney, Early is a state employee and subject to G.L. c. 268A.

19. Having the Daughter's original arrest report revised by the arresting trooper to remove the embarrassing statements, including the quotes of her sexually explicit statements and statement about her father being a judge, or replaced by the sanitized, revised arrest report, was a privilege. The privilege was unwarranted because it was not authorized by law or regulation.

20. Early used his official position as Worcester County District Attorney to secure this unwarranted privilege for the judge and/or his daughter by advising McKeon that he could revise the original arrest report and directing Travers to replace the original

arrest report with the sanitized, revised arrest report.

21. The unwarranted privilege was of substantial value¹ because removal of such information would avoid embarrassment, harm to reputation, and the cost to rehabilitate one's reputation.

22. The unwarranted privilege of having such information removed from an arrest report or having an arrest report replaced in a court file was not properly available to similarly situated individuals whose embarrassing statements, including sexually explicit statements to the police at the time of their arrest, had been included in their arrest reports or the court's files.

23. Therefore, Early violated § 23(b)(2)(ii) by, as the Worcester County District Attorney advising that the original report of the Daughter's arrest could be revised or by directing that the arrest report be replaced.

§ 23(b)(3)

24. Section 23(b)(3) prohibits a state employee from knowingly, or with reason to know, acting in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy his favor in the performance of his official duties, or that he is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person.

25. By, as Worcester County District Attorney, advising that the original report of Daughter's arrest could be revised or directing that it be replaced, Early knowingly, or with reason to know, acted in a manner which would cause a reasonable

¹ "Substantial value" is \$50 or more. 930 CMR 5.05

person, having knowledge of the relevant circumstances, to conclude that he is likely to act or fail to act as a result of rank, position or undue influence of any party or person.

WHEREFORE, Petitioner asks that the Commission:

1. find that Joseph D. Early, Jr. violated G.L. c. 268A, §§ 23(b)(2)(ii) and 23(b)(3); and
2. levy such fines, issue such orders and grant such other relief as may be appropriate.

Respectfully submitted,
Petitioner State Ethics Commission
By its attorneys,

Date: 6/24/20

/s/Candies Pruitt
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Dated: 6/24/20

/s/Tracy Morong
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