

IN THE SUPREME COURT OF OHIO

IN THE MATTER OF:	:	
JEFFREY PASTOR,	:	CASE NO:
COUNCIL MEMBER,	:	
CITY OF CINCINNATI, OHIO	:	CHIEF JUSTICE MAUREEN O'CONNOR

**REQUEST TO COMMENCE SUSPENSION PROCEEDINGS
AGAINST JEFFREY PASTOR, MEMBER OF THE CINCINNATI CITY COUNCIL.**

The Ohio Attorney General Dave Yost hereby requests Chief Justice O'Connor and this Court to commence suspension proceedings against Jeffrey Pastor, Member of the Cincinnati City Council, in accordance with R.C. 3.16.

I. INTRODUCTION

Jeffrey Pastor, a Cincinnati City Council Member, was indicted by a federal grand jury on November 4, 2020 for engaging in a scheme to sell his city council votes for cash payments and other personal monetary gain to real estate developers who had projects up for approval by the Cincinnati City Council. A copy of the Indictment is attached as Exhibit A.

Pastor was elected by the City of Cincinnati taxpayers to a council seat in November of 2017. Coolidge, Sharon "Cincinnati City Council arrest: What to know about Jeff Pastor," *Available at:* <https://www.cincinnati.com/story/news/2020/11/10/jeff-pastor/6231919002/>. Last accessed on November 12, 2020. In September of 2018, just six months after taking office, Pastor sought his first bribe during a two day, fully paid trip to Miami, Florida on a private airplane. Exh. A, ¶¶9-11. While in Miami, Pastor offered his votes in favor of certain real estate developments in exchange for \$15,000.00 up front and for other future benefits. Exh. A, ¶11. Pastor explained how to "sanitize" the illegal payments by running them through his business partner and co-defendant's not for profit business named "Ummah Strength." Exh. A, ¶11.

Over the course of several months, Pastor actually received \$45,000.00 in cash payments in exchange for his council votes. Exh. A, ¶¶8, 13, 19, 21, 33, 42a. Pastor also attempted to obtain other pecuniary benefits for himself and his co-defendant Marshall, such as a monthly retainer, donations to “Ummah Strength,” yearly salaries for Pastor and Marshall, and a cut of the profits from the two real estate development projects. Exh. A, ¶¶12, 17, 27, 30.

Pastor’s alleged criminal conduct came to light through a law enforcement investigation that included the cooperation of two real estate developers and an undercover law enforcement official. Exh. A, ¶¶5-7. Pastor committed these alleged criminal acts via telephone and text messages, which law enforcement officials recorded and which are set forth in the Indictment. *See e.g.*, Exh. A, ¶¶ 15, 22-25.

On November 4, 2020, Pastor was indicted on ten felonies in the U.S. District Court for the Southern District of Ohio: (Count 1) Conspiracy to Commit Honest Services Wire Fraud in violation of 18 U.S.C. §§ 1343, 1346 and 2; (Count 2) Honest Services Wire Fraud in violation of 18 U.S.C. §§ 1343, 1346 and 2; (Count 3) Bribery Concerning Programs Receiving Federal Funds in violation of 18 U.S.C. § 666(a)(1)(B) and 2; (Count 4) Attempted Extortion Under Color of Official Right in violation of 18 U.S.C. § 1951(a), (b)(2) and 2; (Count 5) Bribery Concerning Programs Receiving Federal Funds in violation of 18 U.S.C. § 666(a)(1)(B) and 2; (Count 6) Attempted Extortion Under Color of Official Right in violation of 18 U.S.C. § 1951(a), (b)(2) and 2; (Count 7) Money Laundering in violation of 18 U.S.C. § 1956(a)(1)(B) and 2; (Count 8) Honest Services Wire Fraud in violation of 18 U.S.C. §§ 1343, 1346; (Count 9) Bribery Concerning Programs Receiving Federal Funds in violation of 18 U.S.C. § 666(a)(1)(B); and (Count 10) Attempted Extortion Under Color of Official Right in violation of 18 U.S.C. § 1951(a), (b)(2).

As set forth below, the Ohio Attorney General asserts that the indicted felonies relate to Pastor's administration of, or conduct in the performance of his City Council duties, and that his criminal conduct adversely affects the functioning of his office and the rights and interests of the public. *See* R.C. 3.16(B)(1). Therefore, the Ohio Attorney General requests that the Chief Justice commence suspension proceedings against Pastor and that he be provisionally suspended from his public office pending the resolution of the felony charges in federal court. *See* R.C. 3.16(C).

II. LAW AND ARGUMENT

A. Statutory Suspension Procedures

R.C. 3.16 authorizes the suspension of a public official who, like Jeffrey Pastor, has been charged with a felony in a state or federal court when the felony relates to the performance of the official's duties, and which adversely affects the functioning of that office or adversely affects the rights and interests of the public. R.C. 3.16(A)(2) defines "public official" as "any elected officer of a political subdivision as defined in section 2744.01 of the Revised Code." Jeffrey Pastor, as an elected Cincinnati City Council Member is a "public official" as defined by R.C. 3.16(A)(2). The City of Cincinnati is a municipal corporation and therefore a political subdivision as defined in R.C. 2744.01.

R.C. 3.16(B)(1) states in pertinent part, "[I]f a public official is charged with a felony in a state or federal court and if the attorney general, if the attorney general is prosecuting the case, or prosecuting attorney with responsibility to prosecute the case determines that the felony relates to the public official's administration of, or conduct in the performance of the duties of, the office of the public official, the attorney general, if the attorney general is prosecuting the case, or prosecuting attorney with responsibility to prosecute the case shall transmit a copy of the charging document to the chief justice of the supreme court with a request that the chief justice proceed as provided in division (C) of [R.C. 3.16]."

R.C. 3.16(C) provides a detailed procedure for the suspension of a public official in circumstances identical to those presented in Pastor's case. R.C. 3.16(C)(1) states, "[N]ot sooner than fourteen days after the chief justice's receipt of the attorney general's or prosecuting attorney's request ...the chief justice shall establish a special commission composed of three retired justices or judges of a court of record." Once established, the special commission "shall review the document that charges the public official with the felony, all other documents and materials pertaining to the matter that were provided to the chief justice...and the facts and circumstances related to the offense charged." R.C. 3.16(C)(2). Then, within fourteen days, "the special commission shall make a preliminary determination as to whether the public official's administration of, or conduct in the performance of the duties of, the official's office, as covered by the charges, adversely affects the functioning of that office or adversely affects the rights and interests of the public and, as a result, whether the public official should be suspended from office." *Id.*

A public official may challenge the special commission's preliminary determination that he or she should be suspended from office by submitting written objections and may also attend a meeting to contest the finding. *Id.* At the conclusion of the challenge, the special commission shall issue a final determination by written report. R.C. 3.16(C)(3). Finally, the public official may appeal the special commission's final determination to the Supreme Court. R.C. 3.16(D). The Supreme Court shall uphold the special commission's final determination if the findings are "reasonable and lawful." *Id.*

B. Pastor's alleged criminal conduct directly relates to his performance as a Cincinnati City Council Member, and it adversely affects the functioning of his office and the rights and interests of the public.

There is no question that the indicted felonies directly relate to Jeffrey Pastor's position as a Member of the Cincinnati City Council. All ten of the offenses are unique to public officials

as they criminalize violations of public trust and the bartering and trading of their public offices for personal gain. In a shocking lack of integrity, Pastor violated the public trust by offering his council vote and his potential influence over matters appearing before the City Council in exchange for his own personal financial gain. Pastor further used his position to take financial advantage of two individuals who had legitimate business interests before City Council, and to potentially engage those individuals, and others, in committing criminal acts with him. In all, Pastor could not have committed the alleged offenses had he not been elected by the citizens of Cincinnati and achieved power and influence as a City Council Member.

Pastor's alleged criminal conduct as detailed in the charges also adversely affects the functioning of his office, and that of the entire City Council. Pastor was duty-bound to act in the public's interest, not his own. Assuming the truth of the felony charges, Pastor failed miserably. The City Council, which only acts through a majority vote of its individual members, handles the City's business and routinely votes on matters having profound effects on the City, its communities and its citizens. Pastor's alleged felonious conduct shows that he cannot act within the bounds of the law and he cannot be trusted to act for the good of the public. Pastor simply cannot function as a member of City Council, and therefore, City Council cannot function with Pastor still occupying a seat while his criminal matters are pending. Furthermore, any individual who has business before the City Council must not attempt to unlawfully influence council members or try to obtain a favorable outcome through bribery or other unlawful means. City Council cannot permit members to encourage others who have actual or potential business interests before the Council to violate the law.

Pastor's alleged commission of the indicted felonies also adversely affects the rights and interests of the public. First, Cincinnatians have the unqualified right to expect that their city

council members will act in their best interest and in the best interest of their communities, without regard for personal gain. The public must be assured that matters appearing before the Cincinnati City Council will be handled in an ethical, lawful manner and on a level playing field. Further, Pastor's criminal conduct has sent a dangerous message to those with business interests before the City Council that he is open to be enticed with financial benefits in exchange for favorable votes. Permitting Pastor to continue to perform his duties pending the resolution of the felony charges will further erode public trust and confidence.

III. CONCLUSION

For the foregoing reasons, the Ohio Attorney General respectfully requests that the Chief Justice establish a special commission for the purposes of suspending Pastor from office. Jeffrey Pastor's performance of his duties, as covered by the Indictment, adversely affects the functioning of his office and it adversely affects the rights and interests of the public. Accordingly, suspension of Pastor from his position as Cincinnati City Council Member is appropriate under R.C. 3.16.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Request to Commence Suspension Proceedings Against Jeffrey Pastor, Member of the Cincinnati City Council was sent on this the **16th** day of **November, 2020** via the following:

- (1) *Overnight, Certified Mail, Return Receipt Requested and Regular U.S. Mail to:*

Mr. Jeffrey Pastor
3924 Rose Hill Ave.
Cincinnati, Ohio 45229-1448

AND

Mr. Jeffrey Pastor, Council Member
Cincinnati City Hall
801 Plum Street, Suite 346B
Cincinnati, Ohio 45202

AND

Benjamin G. Dusing, Esq.
The Law Offices of Benjamin G. Dusing, PLLC
809 Wright Summit Parkway
Suite 120
Fort Wright, KY 41011

- (2) *Email to:* jeff.pastor@cincinnati-oh.gov AND bdusing@bgdlaw.com



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