

W17 Public safety writing

Sept. 13, 2019

Sayre wins defamation suit against McDonald

Josh Gully

FRONT ROYAL — Judge Ian Williams on Wednesday ruled in General District Court that former Front Royal-Warren County Economic Development Authority Executive Director Jennifer McDonald defamed Supervisor Tom Sayre and that he is entitled to \$20,000 in damages.

Sayre's defamation case centered around his phone number being listed on a note that was discovered in McDonald's yard during the investigation into a June 2017 incident in which a rock was thrown through her home's front door.

That note contained instructions on how to carry out the crime against McDonald and also referenced a May 2017 break-in at the EDA's office.

McDonald last year was charged on a misdemeanor count of filing a false police report related to the incident, with the primary evidence being that she told local reporter Roger Bianchini of the rock-throwing before it had occurred. Those charges were dismissed in October.

During previous testimony in the civil defamation hearing, Bianchini testified that McDonald told him of the incident several hours before it occurred, a fact confirmed by Front Royal Police Detective Landin Waller's testimony. Waller testified that during an interview regarding the office break-in, Bianchini revealed he learned of the rock-throwing hours before it was reported to the Warren County Sheriff's Office.

Bianchini provided the same testimony in the criminal proceedings, but McDonald's criminal lawyer David Crump asked what he would say if former EDA Administrative Assistant Missy Henry's calendar showed he has a meeting scheduled with McDonald the morning after the incident. Bianchini responded that his memory is imperfect and that he did not remember if he had scheduled a meeting with McDonald.

Bianchini said over the phone Thursday that "anyone can write anything on a calendar at any time" and that if a meeting was scheduled the morning after the rock-throwing, it was canceled. He noted that the alleged calendar entry supposedly said he had a meeting at 9:30 a.m. with McDonald while his interview with Waller was at about 10:30 a.m. and there is no way he would have forgotten going to the EDA office an hour after having done so.

Judge Ian Williams said it is unfortunate that Bianchini's "lack of memory" resulted in the misdemeanor charge being dismissed. He said Bianchini "seems to have rehabilitated" his memory. He added that witnesses who did not testify in criminal proceedings confirmed Bianchini's statements.

The basis of Sayre's suit is that the note was an attempt by McDonald to implicate Sayre in a crime because he was asking questions regarding the EDA's workforce housing project.

Court filings in the EDA's \$17.6 million civil lawsuit against McDonald and others allege that the workforce housing project is one of many ways she embezzled money from the authority.

While McDonald has been sued by Sayre and the EDA, she also stands charged on 28 felony counts including embezzlement, obtaining money by false pretenses and money laundering stemming from her employment as executive director.

During Wednesday's testimony, Sayre testified that the land for the workforce housing apartments was supposed to be a gift from her aunt and uncle.

The EDA, he said, later announced that the land would not be free due to a missed deadline and former EDA Chairman Greg Drescher said the authority had a moral obligation to purchase the land.

Sayre said his interest was piqued because the land deed was normal and not a "deed of gift" while a contract mentioned nothing of free land.

Sayre testified he initially learned of the rock-throwing from McDonald in her office on Aug. 9, 2017. He said McDonald asked if he was aware of the incident, he replied no, and she "acted surprised."

He added that she turned her head to the side and "it was hard for her to look at me eye to eye at that point." He said she did not mention the note or that he may be a suspect.

About two weeks later, Sayre said he learned of his number's appearance on the note during a phone conversation with local reporter Norma Jean Shaw.

"I'll never forget...I was in my kitchen," Sayre said and began crying.

After being given tissues from a bailiff, Sayre eventually continued, saying Shaw told him to "protect myself."

He said Shaw said his number was found at the scene of the crime, that the perpetrator — supposedly a former client of Sayre's who threw the rock to pay off a debt — was identified and "I was basically caught."

"I was stunned," Sayre said.

During a previous hearing, text messages and emails from McDonald to Bianchini were revealed in which she stated that her private investigator may have tips that an elected official was involved in a series of vandalism incidents at her house. Also referenced in exchanges between the two was that an individual identified as "photo boy" and "Putin" may be involved in the incidents.

Bianchini previously testified that while Sayre's name was not directly mentioned, those were indisputable references to Sayre. Bianchini explained "photo boy" is a reference to a Northern Virginia Daily photograph from the 1990s in which Sayre is participating in an anti-abortion demonstration. Evidence also shows that McDonald sent Bianchini an email stating that "photo boy" is the "Putin" pulling the strings in a conspiracy against her.

Bianchini also testified that McDonald never told him whose number was on the note, but hinted that it was Sayre's. Bianchini further testified that McDonald told him her private investigator identified the rock-thrower via security footage and the perpetrator was going to wear a wire to help identify "Putin."

Ken Pullen, that private investigator, previously testified that there was no video footage and no one was going to wear a wire. Sayre's lawyer Tim Bosson said that alone is enough evidence to prove his case.

Sayre said everything about the exchanges between Bianchini and McDonald was false and it was a scam by McDonald to deflect attention off of her.

Bosson asked why McDonald would make "off the record" comments implicating Sayre but not identify Sayre during a police interview as an individual who may want to harm her.

Bosson said McDonald told Bianchini so he would tell people and "spread the gossip" and "that's what he did," as Bianchini previously testified that he told about four people of the note.

After learning that McDonald attempted to frame him in a crime, Sayre said he suffered from "a lot of" stress, anxiety, loss of sleep and sought counseling from a priest.

Lee Berlik, McDonald's lawyer, noted that it seemed Sayre's emotional harm was based on Shaw calling him, not anything McDonald said.

Berlik added that Sayre was "instrumental" in spreading the word that his number was on the note, to which Sayre responded that he told a limited amount of people because he was scared.

Sayre said: "There are people that get knocked off when they know too much," citing the murders of a Front Royal Police Department officer and a local doctor.

"I was a little concerned that McDonald might kill me," Sayre said.

Berlik said while Sayre may have feared for his life, that does not mean it was a reasonable thought.

Sayre, who previously practiced as a full-time lawyer, claimed further damage as he was "so disheartened" by his phone number's appearance on the note because a lawyer's credibility "means everything." He said McDonald "was trying to destroy me" and was worried he could be disbarred.

Sayre said he eventually stopped practicing law full-time to accept a position as Seton Home Schools' human resources manager. Berlik said that not practicing law full-time was Sayre's voluntary decision. He added Sayre did not suffer monetarily from the decision, as his beginning salary at Seton was \$92,000 — about \$10,000 less than his salary as a lawyer — which has since increased with cost of living adjustments.

Sayre said he lost money due to “loss of opportunity” because he spent so much time attempting to “put the pieces of the puzzle together.”

He added that he was worried about losing his position on the Board of Supervisors, saying “look what happened to Hollis Tharpe” — Front Royal's former mayor who resigned before having a misdemeanor prostitution case against him dropped.

“You were worried about a lot of things but none of them actually happened,” Berlik said.

Berlik asked if the motive behind the lawsuit was not to repair reputational damage but to “punish Jennifer,” to which Sayre responded, “absolutely not.”

Berlik noted several witnesses previously testified that they never believed Sayre was involved in the rock-throwing and that his reputation was not harmed.

“His reputation hasn't been affected, except in his mind,” Berlik said.

Berlik said all of Bosson's claims were based on assumption and “you've got to provide people who actually believed the harm to his reputation.”

Sayre noted that Drescher and former Sheriff Daniel McEathron — who committed suicide in May after being named as a defendant in the EDA's lawsuit — started “treating me differently.”

After Berlik referenced the rock-throwing incident as “petty vandalism,” Bosson said the vandalism was much more as it was an attempt to implicate Sayre in a series of crimes.

Bosson added that there was “serious harm” to Sayre's reputation in the year between the rock-throwing and the misdemeanor charge against McDonald.

Berlik also questioned what the defamatory statement was: McDonald's communication with Bianchini or the note. Berlik said Bosson just presented suspicion and a possible motive but no one knows who wrote the note. Berlik added that Sayre's number was indeed on the note, so telling that to people is a true statement and not defamatory.

Sayre said he would not speculate who threw the rock or wrote the note “but I think all the evidence points at McDonald” and there is “overwhelming evidence” that it was her.

“I've been harmed by this letter,” he added.

Berlik said there are other people who would have the motive to harm Sayre's reputation, such as Bianchini. Berlik added he was “not saying” Bianchini threw the rock. Berlik noted,

however, that Sayre “had stalked” Bianchini and accused him of cutting wires on his wife’s vehicle.

Beyond Bianchini, Berlik added that there are “plenty of people around here who would have motivation to frame Sayre.”

Sayre said he “had worked hard to mend” his relationship with Bianchini but after learning of the note “he grew distant from me again” and began writing unfavorable articles.

Sayre said McDonald seemingly “played” Bianchini to spread false information about the note.

Sayre also noted that because McDonald knew of the crime before it happened, all other suspects are exonerated. Sayre said McDonald made a mistake in putting his number on the note and, if she did not, she may still be the EDA’s executive director.

In arriving upon a decision, Williams said the proceedings were “far from a simple case” and it “had a lot of components to it.” He said while evidence Bosson presented “is not quite bulletproof that the defendant is the scrivener of that note” that the court “can look at the totality” of circumstantial evidence to figure out McDonald’s “scheme” and “motive.”

Williams said the evidence points toward a scenario in which McDonald’s attempted to deflect attention and implicate Sayre, noting that “clearly the defendant had a lot riding on keeping a lid on” questions regarding EDA finances.

Williams said Bosson’s theory is “clear and convincing in the eyes of the court.” Williams added that there was clear malice and, fortunately, Sayre’s reputation was not largely affected.

Berlik said after the hearing that McDonald has 10 days to appeal the case to the circuit court and he does not know what her decision will be. McDonald declined to comment on the hearing.

Regarding a possible appeal, Bosson said after the hearing: “That’s a joke.” He said that the evidence “proved it all” and the “truth won.”

Sayre said after the hearing that he was “pleased with the results” but declined to comment further, saying he wished to “savor the victory.”

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W17 Public safety writing

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14 current, former Warren officials indicted

Josh Gully

FRONT ROYAL — Elected officials, along with former and current Front Royal-Warren County Economic Development Authority board members, and high ranking county employees were booked Tuesday after being indicted Friday by the special grand jury investigating local governmental bodies.

The five Board of Supervisors members — Chairman Dan Murray, Vice Chairman Tom Sayre, Tony Carter, Archie Fox and Linda Glavis — were each indicted on two misdemeanor counts of misfeasance and one misdemeanor count of nonfeasance.

Prominent county employees who were indicted on the same charges were County Administrator Doug Stanley and former county and EDA attorney Dan Whitten.

Warren County Public Schools Superintendent Greg Drescher, who previously served as the EDA's chairman, was also indicted on the same three misdemeanor counts. Earlier this month, Drescher announced his intentions of retiring as superintendent in January. According to previous reports, Drescher said he was retiring to spend more time with his sick wife and that it had nothing to do with the EDA.

Former EDA board members Ron Llewellyn and Bruce Drummond, and former EDA treasurer William Biggs along with three current EDA board members – Treasurer Tom Patteson, Mark Baker and Gray Blanton – were indicted on the same charges.

The Cornell Law School's legal dictionary defines misfeasance as: "The incorrect, improper or wrongful performance of a legal act."

Nonfeasance, according to the Cornell Law School's dictionary, is a charge against an individual for not acting at all.

Misfeasance and nonfeasance charges are less serious than malfeasance charges, which result from officials taking illegal actions in their course of duty.

According to a Virginia State Police news release, the charges are "based on the individuals' knowledge of and inaction of the EDA's mismanagement of funds."

The release states that everyone but Whitten turned themselves into the state police Tuesday and were released on a personal recognizance bond.

Whitten, who resigned as Warren County's attorney Sept. 13 to accept a position with Prince George County, "will meet with the magistrate and state police Wednesday," according to the release.

Previous charges

With the 42 indictments handed up Tuesday, the special grand jury has now charged 19 individuals on 83 counts.

In May, Jennifer McDonald, former EDA executive director, became the first person charged by the special grand jury. She now stands charged on 12 felony counts of embezzlement, 11 counts of obtaining money by false pretenses and five counts of money laundering.

Samuel North, McDonald's husband, was charged on two felony counts of obtaining money by false pretenses and one felony count of money laundering.

Michelle "Missy" Henry, the former EDA administrative assistant, was charged on two felony counts of embezzlement.

Local businessman Donald Poe has been charged on two felony counts of obtaining money by false pretenses, one felony count of perjury and one felony count of money laundering.

Henry Lambert, the former owner of the B&G Goods store, stands indicted on two felony counts of obtaining money by false pretenses and one felony count of money laundering.

All five have been granted bond.

Since the indictments handed up by the special grand jury are sealed, the exact nature of the charges have not been revealed beyond the dates on which the offenses allegedly occurred.

Special grand jury

In March, the special grand jury was formed by former Warren County Circuit Court Judge Clifford L. Athey Jr.

This followed the EDA's filing of a \$17.6 million civil embezzlement and misappropriation and embezzlement lawsuit against nine individuals including McDonald, Poe, ITFederal developer Curt Tran, local businessman Justin Appleton and LLCs associated with those individuals.

Former Warren County Sheriff Daniel McEathron, who committed suicide in May, has since been dropped as a defendant in the civil litigation.

The EDA's lawsuit details a number of alleged embezzlement schemes involving projects including ITFederal, the planned workforce housing development, Afton Inn renovations and more.

A court order stated that the special grand jury's investigation will include "alleged misfeasance and malfeasance including the embezzlement or misappropriation of public funds" by entities including the EDA, the Town of Front Royal, the Warren County Sheriff's Office, Warren County Public Schools and the County of Warren.

The special grand jury's investigation was originally scheduled to be completed at the end of this month but it recently received a six-month extension through March 31.

A court order stated the extension was due to "the complexity of matters investigated and the voluminous nature of the evidence collected."

Sparse reaction

Sayre, who is up for re-election in November, was the only person indicted Tuesday to proclaim his innocence.

A news release from his lawyer, Demetrios Pikrallidas, states: “Mr. Sayre did not break the law at any time, nor has he betrayed the good Citizens of Warren County in any way.”

The release adds that Sayre “faithfully served his constituents in the Shenandoah District and will continue to do so.” It adds that Sayre “looks forward to having his day in Court and clearing his name once and for all.”

Upon exiting the jail, Murray did not respond at all to a request for comment. Carter also declined to comment because the matter is part of pending litigation. Fox said “no comment” as he exited the jail, and Stanley also declined to speak.

As Llewellyn exited the jail, he said: “What are you doing here, a perp walk? No comment. I have nothing to say.”

Glavis, Patteson, Whitten and Blanton all declined to comment over the phone.

Biggs, Drummond and Drescher could not be reached for comment.

School Board member Doug Rosen declined to comment over the phone while other School Board members could not be reached. According to previous reports, School Board Chairwoman Cathy Bower and board member Arnold Williams denied that Drescher’s retirement had anything to do with the EDA investigation.

EDA Chairman Ed Daley said over the phone that he will decline to comment until he learns all of the facts regarding the situation.

EDA Executive Director Douglas Parsons said over the phone that he would prefer not to react to the indictments.

“We’ll just let the natural course of things carry through and we’ll see what happens. And I really don’t have any comment on it. It is what it is, I guess...I’m focused on trying to run the day-to-day operations and just do the best we can over here,” he said.

County, EDA critics react

Bébhinn Egger Rowland, the former town councilwoman who raised a series of questions regarding EDA dealings in 2016, said over the phone that her first reaction to the indictments was, “I’m glad people are being held accountable.”

“There was a gross lack of oversight and just downright negligence and I told people again and again and again that something was wrong and it should be looked into...Everybody either ignored me or was outright hostile to me,” she said.

Egger Rowland added that while EDA and county officials were indicted, the Town Council also “ignored it as well.” Despite what she regards as the town’s lackadaisical attitude toward the EDA, she said the legal ramifications are not clear because the town did not have direct oversight of the EDA.

“Just on a basic level they also ignored the problem and tried to get me to be quiet about the problem,” she said.

Mark Egger, Egger Rowland’s father and fellow EDA critic, stated in an email that “if the local political establishment had listened” to his daughter in the fall of 2016, “a lot of this mess could have been avoided.”

“But instead of listening to her and answering her questions, they disrespected and attacked her, which got me involved. Lesson to be learned – don’t treat my daughter that way,” Egger stated.

Bonnie Gabbert and her husband Paul Gabbert, who have expressed distaste with the local government, said over the phone that it is about time something happened.

Bonnie Gabbert noted that a group of citizens had been organizing a potential petition for a recall election. She said that will be put on hold with the hopes that “maybe they’ll man up and go ahead and resign right now.”

Paul Gabbert said: “I am one pleased individual” and happy to see people other than McDonald being held accountable because she “was not the only fish.” He added that he hopes the grand jury continues digging and the same individuals indicted Tuesday are charged with offenses more serious than misdemeanors.

Kristie Atwood, another individual who has been vocal about county government issues, stated in an email that “government is for the people by the people, it’s not for cliques, the elite or the good ole boys” and that Tuesday was “a great day for the Warren County community.”

Melanie Salins, another vocal critic of the county and EDA, said over the phone that she had a mixed reaction to Tuesday’s indictments, which included shock that “it’s finally happening” and being glad officials are being held accountable.

“At the same time, I’m just kind of saddened and embarrassed for our town that it’s come to this,” she said.

Salins said the indictments are confirmation that “the entire government let us down.”

“They ignored the citizens...they thought they were above the law and could do whatever they wanted and walked all over the citizens,” Salins said.

Regarding the sparse comments given from the officials, Salins said that is “absolutely insulting” and “it shows that they don’t even think they owe us an explanation.”

“I think that it shows their arrogance,” she said.

Salins added that everyone indicted should resign because “any decisions that they make going forward could be called into question because their ethics have been called into question.”

Fern Vazquez, another government critic, said over the phone that for so long “the good-old-boy network” had been “a little patronizing toward those of us who were asking questions and tried to obfuscate and get around things.”

“In some ways, it’s a very sad day...I don’t sit here with glee and watch all that came down but probably the strongest impulse is that this is the day of accountability,” she said.

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W17 Public safety writing

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Prostitution charges dismissed, ex-mayor to run for his vacated seat

Josh Gully

FRONT ROYAL – After a misdemeanor prostitution charge against former Mayor Hollis Tharpe was dismissed Monday, he announced his candidacy in a special election to fill his vacated seat.

“It’s appropriate to announce that I will be on the ballot come Nov. 5,” Tharpe said after the hearing.

Tharpe was indicted in April on one misdemeanor count of prostitution solicitation stemming from a 2018 visit to a Biggs Drive massage parlor.

Despite saying that the charges were baseless, Tharpe resigned as mayor because he said he did not want any negative attention to reflect poorly on the town. Upon the resignation, he had served one two-year term as mayor and was in the midst of a second term.

Cynthia Bailey, who owned the massage parlor, stands charged on counts of prostitution, receiving earnings from prostitution, residing in a bawdy place and child cruelty. She is due in General District Court at 2 p.m. Aug. 13.

She appeared briefly on the stand Monday and pleaded the Fifth Amendment when asked whether Tharpe solicited prostitution from her or whether he ever touched her in an unwanted manner.

After she pleaded the Fifth Amendment, special prosecutor Heather Hovermale asked that the charge against Tharpe be dismissed because Bailey was the only witness in the case and “the commonwealth cannot go forth.”

Hovermale added that when the charges were brought against Tharpe, the commonwealth was under the impression that Bailey would cooperate in the prosecution. Judge William W. Sharp proceeded to dismiss the charge with prejudice.

Beau Bassler, Tharpe's attorney, said after the hearing that Hovermale lived up to her reputation as a "fair and just" prosecutor because she realized that the case could not be won.

After announcing his intention to run for his vacated seat after the meeting, Tharpe said, with tears in his eyes, that he would talk about the situation in more depth later but that "I'm a little emotional."

Tharpe and his wife then conferred with his lawyers behind closed doors. Upon their exit, Bassler said he would speak on his client's behalf.

Bassler said that there has been an incredible outpouring of support for Tharpe from the community, his friends and family.

"He's just very thankful that the right outcome happened," Bassler said.

Bassler said that Tharpe does not regret stepping down from his mayoral role because "it's not just about him" and it was best for the town even if he was not guilty.

"Pretty much what he says comes out of my mouth," Tharpe said before getting on the elevator to exit the courthouse.

"Stand by for November the fifth," he added.

Whoever wins the special mayoral election in November will serve out the remainder of Tharpe's term, which expires at the end of 2020.