

From: Veldran, Katherine <KatherineVeldran@gov.sc.gov>
To: Veldran, Katherine <KatherineVeldran@gov.sc.gov>
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Subject: FW: News Release - Speaker Harrell's Statement on Hearing
Attachments: 10-9-12 - AG-News Release on Speaker Harrell.pdf
12-23-13 - AG Opinion.pdf

From: Greg Foster [mailto:GregFoster@schouse.gov]
Sent: Friday, May 02, 2014 2:12 PM
To: Greg Foster
Subject: News Release - Speaker Harrell's Statement on Hearing

**Office of the Speaker
SOUTH CAROLINA HOUSE OF REPRESENTATIVES**

FOR IMMEDIATE RELEASE

May 2, 2014
Contact: Greg Foster
(803) 734-3125
gregfoster@schouse.gov

Speaker Harrell's Statement on Hearing

AG's actions appear politically motivated given how they differ greatly from his handling of similar cases & official positions on the proper legal process

*****Note: The Attorney General's Oct. 9, 2012 press release & Dec. 23, 2013 Opinion referenced in this release are attached to this email*****

(Columbia, SC) – In a hearing held earlier today, counsel representing the S.C. House Speaker and the State Attorney General presented oral arguments regarding motions Judge Casey Manning asked both parties to present on the subject matter jurisdictional issues stemming from Attorney General Wilson's unusual handling of this matter.

House Speaker Bobby Harrell issued the following statement:

"Today's hearing publicly outlined how the Attorney General has attempted to intentionally circumvent the clearly established constitutional and legal process. In every other ethics case, Attorney General Wilson has followed the law – this case being his one exception.

"We look forward to the judge's ruling because this process has been purposefully allowed to drag on by the Attorney General for far too long and at a considerable cost to taxpayers. It's a disappointing fact that had this matter been placed in the hands of a prosecutor free of political motivations from the start, this complaint would have been thoroughly investigated, properly dismissed and rightfully exposed as nothing more than baseless political mudslinging long ago.

"Judge Manning made it clear it was necessary that the issue of subject matter jurisdiction be addressed before the court and asked both sides to present written arguments. Our initial motion only asked the court to replace Attorney General Wilson with a fair and impartial prosecutor because of his inappropriate, politically motivated conduct.

"The unique political maneuvers in this matter contradict the state constitution, ethics act, court rulings and even

Attorney General Wilson's own official legal positions and precedents. These disparate actions call into question Mr. Wilson's motives and cast serious doubt on his ability to be a fair and impartial prosecutor in this case.

"By overstepping the bounds of separation of powers, the Attorney General has seriously damaged the credibility of this process. The court has been asked to restore public trust in this vital constitutional check by ruling that the proper legal process – not the Attorney General's political process – must be followed."

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– In AG Wilson's Own Words –

The following background information is a review of AG Wilson's past actions & statements as they relate to, and differ from, the unusual actions he has taken on the matter

AG Wilson's Position on Who Has Exclusive Jurisdictional Authority in Ethics Complaints:

On Feb. 14, 2013, Attorney General Wilson intentionally bypassed clearly established constitutional and legal procedures – and even his own precedents – by prematurely taking on this administrative ethics complaint.

A Libertarian political organization had been pressuring the Attorney General for months to take the unprecedented action of usurping their administrative ethics complaint against Speaker Harrell from its proper legal jurisdiction. Wilson initially rejected this group's lobbying efforts, unequivocally stating that this matter was not yet within his legal jurisdictional authority to take up and that such a move by his office would be against the law.

Mr. Wilson reiterated his position on the illegality of this group's request in an Oct. 9, 2012 statewide press release, citing precise code sections of the Ethics Act that the Attorney General said prevented his office from improperly interfering in this clearly defined legal process prescribed by state law and state constitution.

The release went on to quote Wilson as saying, **"There is an established record of our following the legal process. The process must proceed as prescribed by state law. Should the House Ethics Committee not act, this Office is then prepared to do what is in the public's best interest."**

- Obviously, by his later action to bypass the proper legal jurisdictions, Mr. Wilson knowingly chose to ignore his previous legal position and the code sections of the Ethics Act he cited
- This also included Wilson's abandonment of his stated position that he would not even consider taking such action unless the House Ethics Committee refused to act
 - That is because, the House Ethics Committee never refused any action on this matter
 - In fact, they were never presented with an opportunity to act. No ethics complaint against Speaker Harrell was ever filed with the Ethics Committee
 - The Attorney General initially urged this political group to file this administrative ethics complaint with the House Ethics Committee if they wanted to initiate the legal process his release detailed, but the group never did that
 - Additionally, no other organization or individual stepped forward to file such a complaint or even argue the allegations this political group had crafted before the House Ethics Committee

AG Wilson's Past Actions on Similar Ethics Cases Establish a Clear Precedent:

In every single ethics case – all, except this one matter involving Speaker Harrell – Attorney General Wilson has consistently chosen to follow the law, just as prior Attorneys General have done:

- During her first years in office, **Governor Nikki Haley** endured a number of politically charged allegations of ethical wrongdoing dating back to her time as a Legislator. Yet, despite claims of unfair political influences and conflicts of interest in this matter, Mr. Wilson chose to follow the law instead of improperly inserting himself into this case. The legal process was followed and an investigation by the House Ethics Committee found the political allegations to be baseless.
 - After the Ethics Committee had addressed the matter, a challenge was made to try and force this matter into a different jurisdiction
 - The courts dismissed this challenge, ruling that state law and the proper legal process were followed
 - Additionally, this decision confirming the exclusive jurisdictional authority of the Ethics Committee was upheld by our state's highest court. See *Rainey v. Haley*
- While Attorney General Wilson did prosecute **former Lt. Gov. Ken Ard**, he only did so after the case had first passed through the exclusive jurisdiction of the State Ethics Commission. The Commission found evidence of alleged criminal violations and, as the law mandates, it referred those matters to the Attorney General's Office. Only then did Mr. Wilson then proceeded with the prosecution of this case.
- Mr. Wilson followed the proper legal process in **former Senator Robert Ford's** ethics case. The matter was brought first before the Senate Ethics Committee. After the Committee's investigation revealed alleged criminal violations, only then was the matter referred to the Attorney General's jurisdiction.
- Again, Mr. Wilson followed the proper legal process in **Comptroller General Richard Eckstrom's** most recent ethics case. Refusing to usurp the case, Mr. Wilson acknowledged the State Ethics Commission's exclusive legal jurisdiction and he allowed this body to address the matter. The Commission investigated the complaint and found that no violations had occurred.
- These are just a few of the many ethics cases that have been addressed since Attorney General Wilson came into office. In every single one of these cases, Mr. Wilson followed the law, recognized the Ethics Commission/Committee's exclusive jurisdictional authority and allowed the proper legal process to proceed.
 - Mr. Wilson followed that legal process in every single ethics cases, that is **EXCEPT** for the matter dealing with Speaker Harrell
 - To date, **Speaker Harrell's is the only ethics case Attorney General Wilson has treated different**, ignoring his own clearly established precedents and the legal process prescribed by state law

Recent AG Opinion Addressing Jurisdictional Authority in Ethics Matters:

Attorney General Wilson's decision to defy the legal process and his own precedents in this one instance evidently was not a permanent change to his legal position on such matters. In Dec. 2013, 10 months into the Attorney General's unprecedented investigation into an administrative ethics complaint against Speaker Harrell, Mr. Wilson issued an Attorney General's Opinion that moved his official position back in line with state law and his past actions.

In a Dec. 23, 2013 Attorney General's Opinion, Mr. Wilson references and confirms the fact that his office does not have the jurisdictional ability to bypass the State Ethics Commission or Legislative Ethics Committees in complaints relating to the Ethics Act. His Opinion even cites the court's ruling in *Rainey v. Haley* as one of several examples supporting the exclusive jurisdictional authority of the Ethics Commission/Committees. In the Opinion, Mr. Wilson stresses his office's official legal interpretation that:

- ☐ **“(E)nforcement of the Ethics Act is expressly delegated solely to the Ethics Commission [or Committee] and that we cannot opine or ‘second guess the Commission’s application of the Act.”**
- ☐ **“(W)e must defer to the Ethics Commission [or Committee] in any administrative resolution to your question”**
- ☐ **“(T)he Ethics Commission is authorized to initiate or receive complaints and make investigations concerning public officials or public employees, except those concerning members or staff of the General Assembly. See, *Rainey v. Haley*”**
- ☐ **“(A)s we have stated on numerous occasions, ‘(s)tate law does not authorize this Office to issue an opinion upon any matter which is within the jurisdiction of the State Ethics Commission.’”**

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Greg Foster
Deputy Chief of Staff
& Director of Communications
Office of the Speaker
South Carolina House of Representatives
(803) 734-3125
gregfoster@schouse.gov
twitter.com/gregfoster_sc