

IN THE IOWA DISTRICT COURT FOR VAN BUREN COUNTY

STATE OF IOWA,)	
)	
Plaintiff,)	Case No. EQEQ026166
)	
vs.)	ORDER FOR REMOVAL
)	FROM OFFICE
ABRAHAM K. WATKINS,)	
)	
Defendant.)	

On the 31st day of October, 2016, the above-captioned matter came before the Court for trial on a petition for removal of Abraham Watkins as the Van Buren County Attorney filed pursuant to Chapter 66 of the Iowa Code. The trial adjourned on November 2nd and reconvened on November 21st. The trial was adjourned again on November 22nd. The balance of the evidence was submitted by deposition with final submission occurring on December 22, 2016. At all times the State has been represented by Attorney F. Montgomery Brown. Mr. Watkins was represented by his attorneys, Alfredo Parrish and Gina Christensen Messamer.

The State's petition was amended on two occasions after the original filing. The Court informed the parties that it would consider the final version of the petition because the adjournments following the start of the trial gave the defense an adequate opportunity to address all of the allegations. The State seeks removal on the grounds of "willful misconduct or maladministration in office" and for "intoxication." *Iowa Code* § 66.1A(2)(6).

LEGAL STANDARDS

A removal proceeding under Iowa Code Chapter 66 is summary in nature and triable in equity. The burden of proof is on the State to prove the alleged ground for removal by evidence which is clear, satisfactory and convincing. Removal is drastic and penal. The object is to rid the community of a corrupt, incapable or unworthy official. *State v. Callaway*, 268 N.W.2d 841, 842 (Iowa 1978).

In order to establish “willful misconduct” as a ground for removal, it is necessary to show a breach of duty committed knowingly and with a purpose to do wrong. This requires proof of grave misconduct. Such misconduct would also be “maladministration in office” within the meaning of § 66.1A(2). *Id.*

FINDINGS OF FACT

The court has given full consideration to the testimony and exhibits offered during trial. The court’s findings of fact, based on the evidence, are set forth below. Any matters asserted by a party not listed below are considered by the court to be immaterial, irrelevant or unproven. The court finds the following to be true:

1. Abraham Watkins was elected as the Van Buren County Attorney in November 2014. He began his term of office on January 1, 2015. Mr. Watkins is a “part-time” county attorney, which means he is allowed to have a private practice in addition to serving as the county attorney.
2. Mr. Watkins’ law office is located in the home where he resides with his wife and two children. The office is located on the main floor of the home. For the most part the family lives upstairs. However, the kitchen and laundry are on the main level adjacent to the office area.
3. Mr. Watkins began practicing law in Keosauqua in 2013. His wife worked as his administrative assistant. In September 2014 Mr. Watkins hired Jasmin Wallingford to work in the office. After Mr. Watkins began his

term as county attorney Ms. Wallingford worked on county business as well as matters related to Mr. Watkins' private practice. She resigned her position in August 2016 because of Mr. Watkins' behavior. She felt Mr. Watkins frequently behaved in a manner, and made comments of a sexual nature, that made her uncomfortable.

4. During her employment, and while Mr. Watkins was the county attorney, the following occurred:
 - Mr. Watkins regularly had Ms. Wallingford perform various personal tasks during work hours. Those tasks included purchasing liquor, driving him to purchase liquor, making doctor appointments, filling prescriptions, picking up lunch, and other personal chores.
 - On two occasions while Ms. Wallingford was present Mr. Watkins entered the work area wearing boxer briefs. On one of those occasions he walked over and stood next to Ms. Wallingford while she was working at her desk.
 - On one occasion Mr. Watkins had Ms. Wallingford drive him and his wife to a restaurant in Burlington. On the return trip Mrs. Watkins, who had recently given birth, squirted her breast milk on the inside of Ms. Wallingford's car. Mr. Watkins filmed the episode. Approximately a month later he showed the video to Ms. Wallingford.
 - On another occasion the Watkins had Ms. Wallingford stay for dinner. During the evening Mr. Watkins showed Ms. Wallingford two pictures of his wife. One depicted her from behind naked below the waist and the other was a photograph of her vaginal area.
 - On another occasion Mr. Watkins told Ms. Wallingford that her "boobs were distracting him."
 - On another occasion Mr. Watkins commented to Ms. Wallingford about the breasts of a courthouse employee. He wondered if she wore a padded bra or if they were "really that big."
 - On another occasion, after seeing an overweight woman, he stated to Ms. Wallingford, "Man, I wouldn't want to see her naked."

- On another occasion Mr. Watkins made a joke in front of Ms. Wallingford and two Amish women who were cleaning the office. The joke had a sexual connotation and was based on the floor cleaner they were using called “Bona.”
 - Mr. Watkins complained to Ms. Wallingford that his wife “never wanted to have sex.” He stated that he wished he had a wife who wanted to have sex all the time.
 - In the fall of 2015 Ms. Wallingford was having some health issues. Mr. Watkins asked her if “her vagina was still broke.”
 - Mr. Watkins told Ms. Wallingford that he had “naked pictures” of old girlfriends. He also stated that he was glad he kept them.
 - In 2015, when Ms. Wallingford was 20 years of age, Mr. Watkins and his wife took her to a restaurant in Fairfield where all three became intoxicated. On another occasion when Ms. Wallingford was still underage Mr. Watkins had her drive him to a town in Missouri to purchase alcohol. Mr. Watkins supplied alcohol to her on that occasion.
5. Virginia Barchman began working as the Assistant Van Buren County Attorney in April of 2015. Ms. Barchman had been retired after a long career as an Area Prosecutor with the Iowa Attorney General’s Office. The following occurred while she was working:
- Ms. Barchman observed Mr. Watkins enter the work area in his underwear. Ms. Barchman protested and Mr. Watkins cupped his hands over his genital area. On another occasion Ms. Barchman observed Mr. Watkins in silky pajama bottoms that revealed the outline of his genitals.
 - On an occasion when Mr. Watkins and the staff were discussing a female attorney he stated that she should be referred to as “T. Quif.” Ms. Barchman did not know the meaning of the term. Mr. Watkins asked his wife to tell her. Ms. Barchman was informed that “quif” was a word for a “vaginal fart.”
 - On another occasion Mr. Watkins asked Ms. Barchman to look at something on his computer screen. It was a photograph of his wife who was nude but covered in blue body paint. Mr. Watkins made a

comment about his wife's beauty. Ms. Barchman is adamant that the photograph she saw is not the one offered into evidence as Exhibit 33.

6. After Jasmin Wallingford resigned Mr. Watkins hired Tayt Waibel, who began working for the office in August 2016. She worked exclusively on county attorney business. Ms. Waibel testified that "stuff was just taken pervertedly" in the office. Another young woman, Holly Richardson, was also working in the office at that time. Ms. Waibel heard Mr. Watkins say to Ms. Richardson, "Oh, Holly, you like big cocks."
7. After this action was filed Mr. Watkins called Ms. Waibel, but she was unable to answer the phone because she had been in the shower. When she explained to Mr. Watkins why she could not answer the phone, he stated that she "should have FaceTimed him when she was in the shower naked." He then said, "This is probably why I'm in trouble for sexual harassment."
8. Christopher Kauffman is a retired police officer who now lives in Van Buren County. He befriended Mr. Watkins and encouraged him to run for county attorney. According to Mr. Kauffman, Mr. Watkins likes to talk about sex and frequently offered to show him naked pictures of his wife. Mr. Watkins also made a comment to Mr. Kauffman regarding the breasts of a courthouse employee.

WITNESS CREDIBILITY

There is significant contrast between the recollections of the State's witnesses versus the recollections of Mr. Watkins; his wife; and current employee, Ms. Richardson. The Court found the State's witnesses to be credible. Their testimony was consistent with other State's witnesses. Furthermore, it was very apparent that neither Ms. Wallingford, Ms. Waibel, nor Mr. Kauffman were eager to testify against Mr. Watkins. Ms. Wallingford and Ms. Waibel were undoubtedly embarrassed by having to publicly testify about the events they witnessed. Ms. Barchman was confident and emphatic while testifying. The Court did not see or hear anything from any of the State's

witnesses that would indicate they were fabricating their testimony. The State's witnesses have no significant personal interest in the outcome of the case. The Court considers their testimony to be truthful.

ANALYSIS

Sexual Harassment

The State's first and primary allegation against Mr. Watkins is that he has committed willful misconduct or maladministration in office by engaging in sexual harassment. There are two recognized types of sexual harassment. The first, which is not applicable in this case, is known as "quid pro quo" sexual harassment. The other is based on a hostile or abusive work environment which exists when sexual harassment is so severe or pervasive as to alter the condition of the victim's employment and create an abusive working environment. *McElroy v. State*, 637 N.W.2d 488, 499 (Iowa 2001).

In Iowa attorneys are expressly prohibited from engaging in sexual harassment in the practice of law. *I.R.P.C. 32:8.4(g); Iowa Supreme Court Attorney Disciplinary Bd. v. Moothart*, 860 N.W.2d 598, 603 (Iowa 2015). The Rule may be violated if a lawyer sexually harasses witnesses, court personnel, law partners, law-office employees, or other third parties that come into contact with a lawyer engaged in the practice of law. *Id.* As used in the Rule, the term "sexual harassment" can include any physical or verbal act of a sexual nature that has no legitimate place in a legal setting. *Id.* at 604. It is not required that the harassment be ongoing or pervasive as has been required in some employment contexts. *Id.*

A victim of sexual harassment has a potential cause of action for damages under both the Title VII of the Federal 1964 Civil Rights Act and the Iowa Civil Rights Act. If an elected county official is the perpetrator of sexual harassment the county could be required to pay damages for a meritorious claim. Furthermore, irrespective of the threat of a lawsuit sexual harassment in any workplace, especially by an elected official, is simply unacceptable behavior. Thus, the citizens of any county have a strong interest in ensuring that their elected officials behave appropriately.

During his tenure as County Attorney, Mr. Watkins has engaged in a pattern of conduct that is unacceptable by any reasonable standard. Many people, probably most, would consider much of his behavior to be outrageous or even shocking. The fact that Mr. Watkins is an attorney trained in the law makes his behavior all the more troublesome. Iowa's Rules of Professional Conduct for attorneys recognize that lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of a lawyer. *I.R.P.C. 32:8.4 Comment 5.*

The State has proven that Mr. Watkins has engaged in misconduct or maladministration by regularly committing sexual harassment. The bigger question is whether his conduct was willful, which requires proof that he acted intentionally with a purpose to do wrong. *Callaway, Id.* Intent is seldom susceptible to proof by direct evidence. Proving intent usually depends on circumstantial evidence and the inferences a fact-finder may draw from the evidence. *State v. Sinclair*, 622 N.W.2d 772, 780 (Iowa App. 2000).

It is said that “actions speak louder than words.” Mr. Watkins’ inappropriate conduct was pervasive and existed over a significant period of time thereby negating any claim of mistake or an isolated lapse of judgment. His actions were clearly intentional. As a lawyer he knew better but continued to subject his two young female employees to sexually related banter, and in some instances images, that have no place in a work setting. This is especially true for a county attorney’s office. Given the extent and stunning nature of his conduct one can, and in the Court’s opinion must, infer that he was acting with a bad or evil purpose. Therefore, the State has established that his misconduct was willful.

The Court does not take removal of an elected official lightly. The remedy is deemed drastic for good reason. Mr. Watkins has created a potential liability for the county and, in light of his history, there is little reason to believe he would not continue to act in the same manner going forward. Citizens have the right to trust that their elected officials will not engage in certain types of behaviors in the workplace. Mr. Watkins has repeatedly violated that trust. In light of his pattern of behavior it is appropriate that he be removed from office.

Conflicts of Interest

The State also alleges that Mr. Watkins has committed willful misconduct or maladministration based on conflicts of interest. He is accused of inappropriately working on related civil and criminal cases. The Court has made no findings regarding these allegations. If they are true some type of disciplinary action might be appropriate. However, the Court does not believe they would justify removal from office.

Intoxication

The State also alleges that Mr. Watkins should be removed from office for intoxication as provided in Iowa Code § 66.1A(6). The most troubling evidence relating to this allegation is Ms. Barchman's opinion that Mr. Watkins was intoxicated when he appeared for a trial. The Court does not doubt that she smelled something she believes to have been alcohol. However, there is substantial evidence in the record, including the testimony of Judge Yates, that prohibits the Court from finding that Mr. Watkins was, in fact, intoxicated in court. Given his history there is reason to be concerned about Mr. Watkins' drinking habits. However, there is insufficient evidence to establish that intoxication has affected the performance of his duties as county attorney or has otherwise existed to the extent that would make removal from office appropriate.

ORDER

IT IS THEREFORE ORDERED that Abraham K. Watkins is hereby removed as the Van Buren County Attorney pursuant to Chapter 66 of the Iowa Code. This order is effective immediately upon filing. Court costs are taxed against the defendant.



State of Iowa Courts

Type: OTHER ORDER

Case Number **Case Title**
EQEQ026166 STATE OF IOWA V. ABRAHAM WATKINS

So Ordered

A handwritten signature in black ink, appearing to read "James M. Drew". The signature is written in a cursive style and is positioned above a horizontal line.

James M. Drew, District Court Judge,
Second Judicial District of Iowa