

NO. HHD CV 17-6081935-S : SUPERIOR COURT

STATE OF CONNECTICUT EX REL.
 GEORGE JEPSEN, ATTORNEY
 GENERAL : J.D. OF HARTFORD

VS. : AT HARTFORD

EDDIE ALBERTO PEREZ and
 MARIA A. PEREZ : MARCH 12, 2019

TRIAL MEMORANDUM

On August 31, 2017, the defendant, Eddie Perez, formerly the mayor of the city of Hartford (city), pleaded guilty to the charges of bribe receiving in violation of General Statutes § 53a-148¹ and criminal attempt to commit larceny in the first degree by extortion in violation of General Statutes §§ 53a-49 (a) (2) and 53a-122 (a) (1).² By complaint dated the same date as his guilty plea, the State of Connecticut commenced the present action on September 5, 2017,

¹ General Statutes § 53a-148, entitled "Bribe Receiving" provides: "(a) A public servant or a person selected to be a public servant is guilty of bribe receiving if he solicits, accepts or agrees to accept from another person any benefit for, because of, or as consideration for his decision, opinion, recommendation or vote. (b) Bribe receiving is a class C felony."

² Larceny by extortion is defined, in relevant part, as: "A person obtains property by extortion when he compels or induces another person to deliver such property to himself or a third person by means of instilling in him a fear that, if the property is not so delivered, the actor or another will . . . use or abuse his position as a public servant by performing some act within or related to his official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely." General Statutes § 53a-122

cc: Rptr. Judicial Decision's
 3/12/19 (alp)

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against the defendant and his wife, Maria A. Perez.³ The state seeks, pursuant to General Statutes § 1-110 et seq., the reduction or revocation of pension benefits to which the defendant would otherwise be entitled by virtue of his service as mayor of the city. The action was tried to the court on November 14, 2018. The court received testimony from the defendant and his wife, which, together with all proffered documents accepted as full exhibits, the court has carefully considered in reaching its decision.

FACTUAL FINDINGS AND PROCEDURAL HISTORY

The defendant, elected by the citizens of the city to be their mayor, served in that capacity from December of 2001 through June 2010. He was re-elected in 2003 and again in 2007. In 2003, the city changed its charter resulting in a “strong-mayor form of municipal government” in which the mayor exercised “real power.” This is so because he had the authority to appoint all department heads who then worked for him in his capacity as chief executive officer. *State v. Perez*, 322 Conn. 118, 140 n.16, 139 A.3d 654 (2016). The defendant resigned as mayor effective June 25, 2010.

The court addresses in turn the two charges to which the defendant pleaded guilty. The bribery charge stemmed from work done on the defendant’s house by a city contractor, USA

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While both Mr. and Mrs. Perez are defendants to this action, Mr. Perez will hereinafter be referred to as “the defendant” throughout the opinion. Maria Perez was named as a defendant because of her potential claim of an interest in her husband’s pension benefits.

Contractors. In 2005, the defendant accepted materials and services for the renovation of his home kitchen and bathroom from USA Contractors, owned by Carlos Costa, a friend of the defendant. At the time, the defendant was mayor of the city and USA Contractors was undertaking a \$5.3 million project in the Park Street area of the city under contract with the city (the Park Street project). Costa's testimony before a grand jury recounted that at the time the work was contemplated and performed, neither the defendant nor his wife ever spoke to him about the cost of the work being performed. Moreover, he never provided either the defendant or his wife an estimate or proposal before the work was started because he did not expect payment for the supplies used or the work performed at the defendant's home. Costa described this eventuality as the "cost of doing business" with the city, a method of ensuring access to the mayor while simultaneously avoiding "persona non grata" status with the city.

In 2006, problems surfaced relating to the quality and timeliness of the work performed by USA Contractors on the Park St. project. The city's public works department and corporation counsel's office initiated a claim against USA Contractor's surety bond due to the significant problems with USA Contractors' work. Costa was of the opinion that had the claim been successfully pursued he would have ceased to be a contractor. The defendant interceded and the claim was withdrawn at his behest. Costa believed that this action by the defendant was a big favor for him. The Park Street project was finished two and one half years behind schedule. In

June of 2007, during a criminal investigation, the defendant initially lied to investigators from the State's Attorney's office about having paid USA Contractors for the work done on his home. The defendant subsequently obtained a home equity loan from which he paid USA Contractors \$20,217 in satisfaction of a bill provided to him by Costa some two years after the work had been completed. In fact, Costa estimated the actual cost of work done at the Perez residence as being approximately \$40,000.

The attempted extortion charge arose out of unrelated events that occurred during 2006 and 2007. One Joseph Citino expressed an interest in buying two adjacent parcels of land, 1143 and 1161 Main Street in Hartford, which were either owned or controlled by the city. Abraham Giles, a person with great political influence in the north end of the city, operated a parking lot on 1143 Main Street pursuant to an oral month-to-month contract with the city. Because of Giles' influence, the court infers that the defendant believed that Giles' support would be of significant assistance to the defendant's continued political prospects. As mayor of the city at the time, the defendant exercised significant control over the city's decision to sell the parcels to Citino. The defendant informed Citino that he (Citino) would have to "take care of" Giles if he wanted to move the project forward. After receiving an initial demand of \$250,000 to buy out Giles' interest in the parcel, Citino negotiated the buyout down to \$100,000. The deal fell apart after (1) Citino learned that Giles possessed only a month-to-month lease interest in 1143 Main

Street and (2) negative publicity emerged in February 2007 by way of articles in the Hartford Courant reporting on alleged corruption on the part of the defendant.

After a criminal investigation, the defendant was charged with the violation of a number of offenses related to political corruption. The factually unrelated bribery and extortion cases were joined for a single trial, which took place in between April and June of 2010. On June 18, 2010, the defendant was convicted of: bribe receiving; fabricating evidence as an accessory; conspiracy to fabricate evidence; conspiracy to commit larceny in the first degree; and attempt to commit larceny in the first degree by extortion. Within days the defendant resigned as mayor of the city.

On the defendant's appeal from the judgments of conviction, the Appellate Court concluded that, although the evidence was sufficient to support the convictions, the trial court had abused its discretion in joining the separate bribery charges with the extortion charges for trial because the joinder compromised the defendant's decision to testify in one case but not the other. *State v. Perez*, 147 Conn. App. 53, 123, 80 A.3d 103 (2013), *aff'd*, 322 Conn. 118, 139 A.3d 654 (2016). The judgments were reversed, and the cases remanded for new, separate trials on the bribery and extortion charges. *Id.* 124. On remand, the cases were resolved by an agreement involving the previously noted guilty pleas to bribe receiving and attempted larceny in the first degree by extortion that are, respectively, class C and class B felonies. In exchange

the state agreed to recommend sentences of three years of incarceration execution suspended, followed by three years' of probation or a conditional discharge, at the court's discretion, on the bribery charge and five years' of incarceration execution suspended, three years' probation or conditional discharge, at the court's discretion, on the charge of attempted larceny by extortion. The agreed upon sentences were to run consecutive to each other for a total effective sentence of eight years suspended with three years of probation or conditional discharge. The court, *Dewey, J.*, accepted the agreed upon disposition and elected to impose conditional discharge rather than probation. Additional facts will be set forth as necessary.

APPLICABLE LAW

General Statutes § 1-110a (a) provides in relevant part: “[I]f any public official or state or municipal employee⁴ is convicted of or pleads guilty or nolo contendere to any crime related to state or municipal office⁵ in state criminal or federal criminal court, the Attorney General shall apply to the Superior Court for an order to revoke or reduce the pension of any kind to which such public official or state or municipal employee is otherwise entitled under the general

⁴ It is not disputed that the defendant falls within the definition of a “state or municipal employee.” General Statutes § 1-110, entitled “Definitions,” defines a “state or municipal employee” as any person . . . who provides services for a city . . . for which a pension is provided.” § 1-110 (2).

⁵ The definition of a “crime related to state or municipal office” includes bribery in connection with service as a public official or municipal employee and the committing of any felony with the attempt to realize a gain or advantage for himself or for some other person through the use or attempted use of the power, rights, privileges or duties of his position as a public official or state or municipal employee. § 1-110 (3) (C) - (D).

statutes for service as a public official or state or municipal employee.” (Footnotes added.) As mayor of the city, the defendant was eligible for retirement benefits pursuant to the City of Hartford Municipal Employees’ Retirement Fund (Plan), which included a pension. The defendant was required to, and did, make pension contributions to the Plan during his employment with the city.

Effective October 10, 2016, the plaintiff became eligible for pension benefits and has been receiving an annual pension of \$27,945.12. Based on the foregoing, the court finds that the defendant falls within the definition of a “state or municipal employee” for the purposes of § 1-110a(a). The court also finds that the defendant pleaded guilty to crimes related to municipal office in state criminal court.

The preceding findings require the court to consider whether the defendant’s pension shall be revoked or reduced. General Statutes § 1-110a (b) sets forth several factors that the court must consider, as follows: “(1) The severity of the crime related to state or municipal office for which the public official or state or municipal employee has been convicted or to which the public official or state or municipal employee has pled guilty or nolo contendere; (2) The amount of monetary loss suffered by the state, a municipality or a quasi-public agency or by any other person as a result of the crime related to state or municipal office; (3) The degree of public trust reposed in the public official or state or municipal employee by virtue of the person's position as

a public official or state or municipal employee; (4) If the crime related to state or municipal office was part of a fraudulent scheme against the state or a municipality, the role of the public official or state or municipal employee in the fraudulent scheme against the state or a municipality; and (5) Any such other factors as, in the judgment of the Superior Court, justice may require.”

The application of these factors is not one of first impression. Two decisions of the Superior Court concluded a revocation of the defendant’s pension was appropriate. *State ex rel. Jepsen v. Sanford*, Superior Court, judicial district of Hartford, Docket No. CV-13-6038989-S, 2015 WL 7421767 (October 30, 2015, *Elgo, J.*) (revoking pension received by defendant, a municipal “supervising employee,” who embezzled goods and services paid for by town funds totaling approximately \$20,000 over four-year span); *State ex rel. Jepsen v. Handly*, Superior Court, judicial district of Hartford, Docket No. CV-14-6047658-S, 2014 WL 5394574 (September 18, 2014, *Huddleston, J.*) (revoking pension where defendant, Department of Social Services employee, engaged in scheme to redirect approximately \$44,000 of public assistance funds to herself over two-year period). As the defendant correctly points out, these cases involved a direct financial gain to the defendant.

The court has also considered one decision that resulted in a reduction of pension benefits in an amount proportional to the period of criminal activity compared to total length of

the defendant's employment. *State ex rel. Jepsen v. Asipi*, Superior Court, judicial district of Hartford, Docket No. CV-16-6071743-S, 2017 WL 3000707 (June 12, 2017, *Scholl, J.*) (reducing pension of defendant, former caretaker for developmentally disabled adults, by 17 percent where defendant stole \$43,681.33 from disabled individuals over four-year period, which equated to one-sixth of twenty-four-year career on which the pension was based).

Other courts have found that the balancing of the statutory factors set forth in § 1-110a(b) weighed against revocation or suspension of pension benefits. *State ex rel. Jepsen v. Lizotte*, Superior Court, judicial district of Hartford, Docket No. CV-18-6085477-S, 2018 WL 6446431 (November 9, 2018, *Scholl, J.*) (no revocation or suspension of pension where defendant, twenty-two year employee/superintendent of streets and parks guilty of felony charge of larceny for conversion of \$2,525 worth of granite curbing with partial restitution and minor financial loss to city); *State ex. rel. Jepsen v. Baruzzi*, Superior Court, judicial district of Tolland, Docket No. CV-17-6012837-S, 2018 WL 4308922 (August 22, 2018, *Gordon, J.*) (no revocation or reduction of pension where defendant, superintendent of schools, received \$48,000 in false mileage reimbursement claims); *State ex rel. Jepsen v. Cruz*, Superior Court, judicial district of Tolland, Docket No. CV-16-6010617-S, 2017 WL 10379579 (April 3, 2017, *Bright, J.*) (66 Conn. L. Rptr. 896, 902) (declining to reduce pension where defendant, superintendent of schools, misused town credit card and overstated mileage requests to misappropriate total of

approximately \$6000 over six-month period because although defendant held position of significant trust, conduct not severe, town fully compensated, and defendant was faithful public employee for most of forty year career); *State ex rel. Jepsen v. Santorella*, Superior Court, judicial district of Hartford, Docket No. CV-12-6028588-S, 2014 WL 3906847 (July 7, 2014, *Scholl, J.*) (58 Conn. L. Rptr. 507, 510) (declining to revoke or reduce pension where defendant, municipal accountant stole two checks \$55,213.50 over four-month span of thirty-six year career).

ANALYSIS

Mindful of the factual findings and legal authority set forth above the court applies in turn the statutory factors enumerated in §1-110a(b).

1. Severity of Crime

In the present case, the crimes of which the defendant was convicted pursuant to his guilty plea, bribery and attempted larceny in the first degree by extortion are, respectively, class C and class B felonies. Trial courts agree that the mere classification of a crime is not dispositive of the severity of the crime. *State ex rel. Jepsen v. Cruz*, supra, 2017 WL 10379579, * 6; *State ex rel. Jepsen v. Santorella*, supra, 2014 WL 3906847, *3. This is because “given that any public theft of over \$2,000 constitutes larceny in the first degree and a B felony, relying on the

classification of the offense to define the severity of the crime would result in the court treating a theft of \$3,000 as severe as a theft of \$3,000,000.” *State ex rel. Jepsen v. Cruz*, supra.

A. Bribery

The value of the goods and services related to the home improvement to the defendant’s house which, had the scheme not been brought to light, the defendant would have enjoyed for free, was approximately \$40,000. The nature of this crime, however, is not properly measured only in dollars and cents but rather in the injurious implications for the honest administration of government. As noted by our Supreme Court, bribery is “a crime that involves a violation of the public’s trust in our elected officials” *State v. Bergin*, 214 Conn. 657, 662, 574 A.2d 164 (1990).

In the present case, the personal benefit by which the defendant sought to enrich himself resulted in, at least,⁶ the obstruction of attempts to remedy what was perceived to be defective and untimely work by USA Contractors on a public project. In short, the defendant was prepared to, and in fact did, endanger a public project in a distressed neighborhood for his personal benefit. The court also considers relevant the fact that the defendant lied to state investigators when asked if he had paid USA Contractors.

B. Attempted Larceny by Extortion

⁶ The plaintiff offered, and the court admitted, an arrest warrant and affidavit in support of the defendant’s arrest, which refers to other inappropriate intercessions on the part of the defendant on behalf of Costa.

In this crime the defendant sought to benefit politically by securing the support of a politically influential person (Giles) by means of coercing a businessman (Citino), who sought to invest in, and presumably improve, the city that the defendant was charged to protect, to make a payoff to Giles. It should not be necessary to remark that such behavior not only insults public integrity but also harms the public good.

Individually and in concert the above crimes place the defendant's misconduct on a high level of the continuum of severity.

2. Monetary loss suffered

The parties agree that there was no direct monetary loss to the city, therefore this factor is neutral.

3. Degree of public trust reposed in defendant's position

The highest elected official of a municipality is its mayor. A mayor in a "strong-mayor form of government" is afforded great influence in all spheres of government including the expenditure of the taxpayers' money and the administration of the institutions created to serve the public. As such, the position is the repository of an extraordinary degree of public trust.

Moreover, unlike members of a city council who generally act only in concert with others, a strong mayor enjoys great independence of action. Similarly, "the relationship of elected

officials to the public trust and welfare is profoundly different from that of ... ordinary [municipal employees].” *Moreau v. Flanders*, 15 A.3d 565, 587 (R.I. 2011).

Finally, the injury inflicted by any misconduct is magnified when accompanied by a breach of trust and never more so than when done by an elected public official. In a representative democracy, the public’s vote is an act of trust and confidence that the public official will act in the public’s interest. Misconduct by an elected official results not only in distrust of the official but also a “loss of public confidence in the honesty and integrity of their elected officials.” *United States v. Newton*, No. CR. 3:05CR233AHN, 2007 WL 1098479, at *2 (D. Conn. Apr. 10, 2007), *aff’d*, 226 F. App’x. 80 (2d Cir. 2007). The defendant’s malfeasance while mayor thus places his actions on the severe end of the continuum.

4. *Relation of crime to any fraudulent scheme against city*

The court finds no such scheme was proven in the present case. This factor is considered neutral by the court.

5. *Other factors*

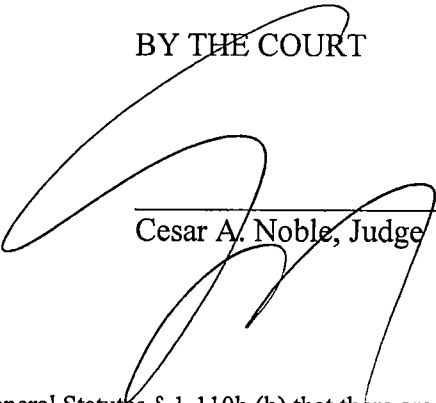
The defendant offered evidence as to the significant negative impact on his financial condition that will result from the revocation of his pension and the significant legal bills he owes to his criminal defense counsel. The defendant testified that he was unemployed for several years following his convictions in 2010 because it was difficult for him to find employment. In

further mitigation, the defendant testified that he served as chairman of the Board of Education and the city school building committee that oversaw one of the biggest school building and renovation eras in the city's history. The court received evidence as to the severity of illness suffered by Maria Perez.

The consideration of the statutorily mandated factors compels the court to order the revocation of the defendant's pension. None of the decisions previously discussed involved misconduct by an *elected* official. In the present case the defendant's criminal conduct began in 2005, half way through his tenure as mayor of the city. The severity of the crimes, the self dealing and disdain for the public good demonstrated by his conduct, as well as the high degree of public trust reposed in the defendant, outweigh any factors mitigating his crimes including any good work done for the city, the financial impact on the defendant and his wife or her illness. The court therefore orders the defendant's pension revoked pursuant to § 1-110a.⁷

So ordered.

BY THE COURT


Cesar A. Noble, Judge

⁷ The court determines pursuant to General Statutes § 1-110b (b) that there are no judgments or orders rendered by any court of competent jurisdiction for the payment of restitution as a result of the defendant's crime. Accordingly the defendant is entitled to a return of contributions paid in to the Plan, without interest, pursuant to § 1-110b (a).

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Docket Number CV 17-6081935-5

Case Name State of Conn. Ex Rel.

George Tepsen v. Eddie Alberto Perez
Et al

Memorandum of Decision dated 3-12-19

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⚡ HHD-CV17-6081935-S STATE OF CONNECTICUT EX REL GEORGE JEPSEN, AG v. PEREZ, EDDIE ALBERTO Et Al
Prefix: HD5 Case Type: M90 File Date: 09/12/2017 Return Date: 09/19/2017

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Case Information

Case Type: M90 - Misc - All other
Court Location: HARTFORD JD
List Type: No List Type
Trial List Claim:
Last Action Date: 11/15/2018 (The "last action date" is the date the information was entered in the system)

Short Calendar Look-up
By Court Location
By Attorney/Firm Juris Number
Motion to Seal or Close
Calendar Notices

Disposition Information

Disposition Date:
Disposition:
Judge or Magistrate:

Court Events Look-up
By Date
By Docket Number
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Pending Foreclosure Sales

Party & Appearance Information

Party	No Fee Party	Category
P-01 STATE OF CONNECTICUT EX REL GEORGE JEPSEN, AG Attorney: ⚡ AAG ROBERT B TEITELMAN (085053) File Date: 09/12/2017 AG-ANTITRUST UNIT 4TH FL 55 ELM ST PO BOX 120 HARTFORD, CT 061410120	Y	Plaintiff
D-01 EDDIE ALBERTO PEREZ Attorney: ⚡ HALLORAN & HALLORAN LLC (412123) File Date: 09/19/2017 9 LEWIS STREET HARTFORD, CT 06103		Defendant
D-02 MARIA A. PEREZ Attorney: ⚡ HALLORAN & HALLORAN LLC (412123) File Date: 09/19/2017 9 LEWIS STREET HARTFORD, CT 06103		Defendant

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