

Legislative Ethics Board

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COMPLAINT 2022 – NO. 12

In re Johnson

December 20, 2022

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NO REASONABLE CAUSE - ORDER OF DISMISSAL

I. NATURE OF COMPLAINT

The complaint alleges that Respondent violated the provisions contained in the Ethics Act by engaging in a Twitter conversation that included insensitive, discriminatory, and dishonest allegations against Washington peace officers. Although the complaint alleges a violation of RCW 42.52.900, the Board also analyzed the complaint as alleging a violation of RCW 42.52.070 (special privileges).

II. JURISDICTION

The Board has personal and subject matter jurisdiction.

III. PROCEDURAL HISTORY

Complaint 2022 – No. 12 was received on October 8, 2022, and was discussed at the Board's regularly scheduled meetings on November 10, 2022 and December 19, 2022.

IV. FINDINGS OF FACT

1. Respondent is a member of the House of Representatives representing the 30th legislative district. He was appointed in January 2020 and was elected to a full term in 2020.
2. During the 2021 legislative session, Respondent sponsored two bills that impacted law enforcement agencies: E2SHB 1310 concerning the permissible uses of force by law enforcement and correctional officers; and ESHB 1054 establishing requirements for tactics and equipment used by peace officers. Both bills were controversial.
3. During the 2022 legislative session, Respondent sponsored SHB 1735 which modified the standard for the use of force by peace officers.
4. During the progression of E2SHB 1310 and ESHB 1054 through the legislative process, Respondent worked with various law enforcement organizations. There were several law enforcement organizations that opposed all or certain portions of these bills.

5. On September 23, 2022, Respondent and Jason Rantz, from KTTH Radio, were involved in the following Twitter exchange:

Rantz: What's not working are your reforms – it's why both Democrats and Republicans are calling you out. But there are plenty of criminals who are thanking you so I guess there's that, Jesse.

Respondent: Lol I don't count Republicans in democratic suits. The legislature did what needed to be done and some police got angry because they're [sic] culture must shift and they can't go around killing people. Why does the second largest union in our state still support the policy then? Onward.

Rantz: Oh yes – noted right wing politician Cassie Franklin. You can count one group . . . while ignoring quite literally everyone else if you like.

6. Respondent does not have an official Twitter account. This exchange occurred on Respondent's personal Twitter account.
7. On October 7, 2022, the Washington Association of Sheriff's and Police Chiefs (WASPC) sent Respondent a letter requesting that he retract his statement of September 23, 2022. Respondent did not respond.
8. On October 8, 2022, the Washington State Sheriff's Association sent a letter supporting the letter sent by WASPC.
9. Complainant indicated that the board of the organization for whom she works was very upset about this Twitter exchange and decided to file a complaint.

V. ANALYSIS AND CONCLUSIONS OF LAW

RCW 42.52.070 provides as follows:

(1) Except as required to perform duties within the scope of employment, no state officer or state employee may use his or her position to secure special privileges or exemptions for himself or herself, or his or her spouse, child, parents, or other persons.

(2) For purposes of this section, and only as applied to legislators and employees of the legislative branch, "special privileges" includes but is not limited to, engaging in behavior that constitutes harassment. As used in this section:

(a) "Harassment" means engaging in physical, verbal, visual or psychological conduct that:

(i) Has the purpose or effect of interfering with the person's work performance;

(ii) Creates a hostile, intimidating, or offensive work environment; or

. . . .

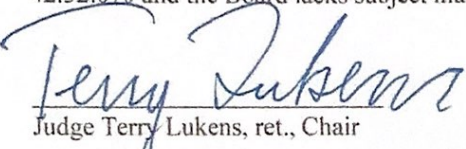
The question is whether Respondent's Tweet created a hostile, intimidating or offensive work environment for Complainant or anyone else. The Complainant is the Executive Director of an

association that represents law enforcement officials. She brought this issue to her board, which decided to have her file a complaint. There is no person alleged to have been harassed by Respondent's actions. The complaint does not allege that the board members were harassed or that the Complainant was harassed. Without even an allegation that an individual was harassed, the Board can find no violation of RCW 42.52.070.

RCW 42.52.900, cited by Complainant as the basis for this complaint is the intent section of the Act. The intent section is a statement of values and may be helpful in interpreting a substantive provision of the Act, but is not self-executing and standing alone does not confer jurisdiction on the Board. *In re Zarelli*, 2003 – No. 11. See also *In re Sutherland*, 1995 – No. 2; *In re Cox*, 2000 – No. 3; *In re Green*, 2005 – No. 3.

VI. ORDER

IT IS HEREBY ORDERED that reasonable cause does not exist to believe Respondent violated RCW 42.52.070 and the Board lacks subject matter jurisdiction pursuant to RCW 42.52.900.



Judge Terry Lukens, ret., Chair

12/21/22

Date