

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

In re: DAVID ROBERTS) OEIG Case # 09-00598

OEIG FINAL REPORT (REDACTED)

Below is a final summary report from an Executive Inspector General. The General Assembly has directed the Commission to redact information from this report that may reveal the identity of witnesses, complainants or informants and "any other information it believes should not be made public." 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes-competing interests of increasing transparency and operating with fairness to the accused. In order to balance these interests, the Commission may redact certain information contained in this report. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut its factual allegations or legal conclusions before the Commission.

The Executive Ethics Commission ("Commission") received a final report from the Executive Inspector General for Agencies of the Governor ("OEIG") and a response from the Secretary of the Department of Human Services in this matter. The Commission redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Governor's Executive Inspector General and to David Roberts at his last known address.

These recipients were given fifteen days to offer suggestions for redaction or provide a response to be made public with the report. The Commission, having reviewed all suggestions received, makes this document available pursuant to 5 ILCS 430/20-52.

FINAL REPORT

ALLEGATION

The Office of Executive Inspector General ("OEIG") received a complaint alleging that Illinois Department of Human Services' ("DHS" or "Agency") employee David Roberts ("Roberts") made inappropriate contact with a DHS claimant.¹ The OEIG concludes that this allegation is **FOUNDED**.

¹ Another facet of the Complaint lodged against Roberts concerned his alleged impropriety in manipulating the approval of benefits to a claimant not otherwise entitled. This prong was not substantiated by the OEIG.

SUMMARY REPORT OF THE OEIG INVESTIGATION

For over twenty-five (25) years, Roberts has worked as a Disability Claims Adjudicator for DHS or one of its predecessor agencies, the Department of Rehabilitation Services. In this capacity, Roberts was essentially responsible for aiding in the determination of whether claimants were disabled within the meaning of the Social Security Act ("SSA") and, therefore, entitled to benefits. It was through this work that Roberts had occasion to acquaint himself with claimant [name of claimant hereinafter "Jane Doe"].

When Doe applied for disability benefits, Roberts was assigned as her caseworker and the two (2) had several telephone conversations.² During these communications, Doe essentially characterized Roberts's commentary to be inappropriate insofar as he used explicit language, offered sexual innuendo and shared personal information about himself. According to Doe, Roberts also told her, in differing contexts, that he would get in trouble if his supervisors or colleagues knew the extent of the information he requested of or imparted to her. OEIG investigators questioned Roberts about these conversations. While he mostly equivocated about his specific recollection of conversations he had with Doe, he did admit that he shared personal information about himself with Doe and that he did so to establish a rapport with her.

Besides the telephone conversations the two of them had, Roberts also sent Doe correspondence, through the U.S. mail, from his personal address. In addition to a picture he sent of himself and a couple family members, he sent her a postcard. The front of the postcard was a replica of a painting by Pierre-Auguste Renoir, entitled "Bather Arranging Her Hair." The painting [is] a frontal depiction of a partially nude woman [further detail of the painting redacted]. On the back of the postcard, Roberts wrote to Doe:

Hi [Doe's first name] ...³

My vision of Ms. Tex. My email is:[redacted] if you want to keep in touch.

Dave

During his OEIG interview, Roberts told investigators that he sent the photograph of himself and his family to Doe to "show her that we are like everybody else." And while he could not recall whether he told Doe that he could be fired for sending her the photograph, he said he "knew it was reckless." As for the postcard, Roberts admitted that he sent it and that the e-mail address contained therein was his personal one. He further confirmed that he was referring to Doe as "Ms. Tex" as she was from Texas.

Roberts told the OEIG that the way he interacted with Doe was atypical and, according to him, stemmed from his desire to quell what he perceived to be uneasiness on her part to file a claim for benefits. He explained that he corresponded with her the way he did because, to quote him, he "thought it would make her see that we are all humans over here and not faceless, nameless

² Evidence was divergent regarding the duration of these calls. Doe's statements regarding how long the conversations lasted were not corroborated by a review of Roberts's outgoing telephone calls during the events at issue.

³ The rest of the salutation is unreadable given the overlaying postmark.

bureaucrats and that we are empathetic." Investigators asked Roberts what DHS policy was regarding socializing with clients, to which he responded, "You're not supposed to." He continued that he did not think his conversations with Doe were tantamount to socializing as he did not see her and had no intention to. Despite his belief as to what constituted "socializing," Roberts did acknowledge that his interactions were outside the norm; in his words, "I got really informal with this lady."

ANALYSIS

The DHS Employee Handbook states the following regarding staff conduct:

An employee holds a position of public trust and is expected to conduct himself or herself in a responsible, professional manner, refraining from conduct which could adversely affect the confidence of the public. An employee who violates the public trust or fails to conduct himself or herself in a professional manner may be subject to discipline up to and including discharge.⁴

After this preface, employees are admonished to: "refrain from socializing with customers ... when such a relationship may constitute or give the appearance of a conflict of interest[; and] ... not demonstrate inappropriate behavior or discourteous treatment of the public [or] customers."⁵

By Roberts own admission, he "got really informal" and was "reckless" when dealing with Doe. His lapses not only extended to his provision of personal information: he also sent her his picture and a postcard, containing his personal e-mail address, with a depiction of a female in nearly full frontal nudity which, according to his writing, represented his "vision" of Doe. Roberts's actions were simply not in keeping with his Agency's obligations to act professionally and courteously when interacting with the State's clientele.

In addition, the evidence does not support Roberts's belief that his interactions with Doe were not akin to "socializing," but were, instead, efforts to make her feel more at ease with the process. If Roberts's actions were sanctioned by Agency practice, and he truly believed they were, he would not have sent her correspondence from his *personal* as opposed to his work address and invited her to contact him at his *personal*, not his State, e-mail address. Moreover, Roberts's actions in trying to facilitate a relationship with a State claimant, via means unrelated to the State, readily gave rise to an apparent, if not an actual, conflict of interest because he used his Agency position and information to pursue a personal interest. Such a convergence of professional and private interests is precisely the type of situation that Agency policy seeks to forestall.

Given that the evidence established that Roberts violated DHS policy by having inappropriate interaction with an Agency claimant (and solicited reciprocity on her end), the allegation is **FOUNDED**.

⁴ DHS Employee Handbook Section V (Employee Personal Conduct).

⁵ *Id.* at ¶¶ DHS Administrative Directive 01.02.03.040 (Rules of Employee Conduct), ¶¶ 3 and 8.

CONCLUSION AND RECOMMENDATION

Following due investigation, the OEIG issues this finding:

- **FOUNDED** - In derogation of Agency protocol, Roberts inappropriately communicated with a DHS claimant.

Based upon the evidence, the OEIG recommends that Roberts be subject to discipline for his inappropriate communications with an individual seeking Agency-administered benefits.

No further investigative action is needed and this case is considered closed.



Pat Quinn, Governor

Illinois Department of Human Services

Michelle R.B. Saddler, Secretary

100 South Grand Avenue, East • Springfield, Illinois 62762
401 South Clinton Street • Chicago, Illinois 60607

May 14, 2010

Mr. James A. Wright
Executive Inspector General
Office of the Executive Inspector General
For the Agencies of the Illinois Governor
32 West Randolph Street, Suite 1900
Chicago, Illinois 60601

Received
09-CHICAGO
2010 MAY 18 PM 1:38

RE: OEIG Complaint No: 09-00598

Dear Inspector General Wright:

Thank you for your patience regarding the final disposition on OEIG Complaint 09-00598. Allegations against David Roberts, Disability Claims Adjudicator with the Bureau of Disability Determination Services (BDDS) regarding inappropriate contact with a claimant were FOUNDED by your office. On March 31, 2010 DHS provided an interim report, which included the date of the pre-disciplinary meeting. The pre-disciplinary meeting was held on March 25, 2010 and Mr. Roberts was issued a 20 day suspension which began May 1, 2010 for his conduct in this matter. Consequently, DHS considers this matter closed.

Sincerely,

Michelle R.B. Saddler
Secretary

cc: Grace Hong Duffin, Chief of Staff
file

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: David Roberts)

09-00598

RESPONDENT'S SUGGESTIONS FOR REDACTION / PUBLIC RESPONSE

Please check the appropriate line and sign and date below. If no line is checked the Commission will not make your response public if the redacted report is made public.

Below is my public response. Please make this response public if the summary report is also made public; or

Below are my suggestions for redaction. I do not wish for these suggestions to be made public.

David J Roberts
Respondent's Signature

6-13-10
Date

Instructions: Please write or type suggestions for redaction or a public response on the lines below. If you prefer, you may attach separate documents to this form. Return this form and any attachments to:

Illinois Executive Ethics Commission
401 S. Spring Street, Room 513 Wm. Stratton Building
Springfield, IL 62706

Please see my attached 2pp typed
response.

David Roberts

I have worked for 26 years as an adjudicator for the State of Illinois and done about 800 cases per year. I have worked with all sorts of people from clergymen to felons, but I have never been accused of any improprieties with one until this person, who was found mentally disabled, complained about me. I have been found to have been trying to socialize with her. And now the final report has concluded that her credibility, as a mentally disabled person, is more believable than mine. I have been "inappropriate."

I was called to an investigation in August of 2009. I had no idea what the issue was, and was questioned in detail about my memory of conversations that were three months old. I was interrogated about my contacts with a disability claimant that had ended in May 2009. I was questioned for over an hour.

In March of this year, I was called into the Deputy Director's office, where I was told I had disappointed her and she wanted to discharge me. However, due to 26 years of good work, she felt she could not fire me. She had read the investigation and decided I needed to be punished. I filed a rebuttal; I cannot tell that it meant anything. It appears that the results of the investigation were accepted totally my management in my agency.

Interaction with claimants for Social Security Disability is difficult at times because the program is complex, puzzling, technical and demanding. About 2/3 of these initial claims are denied. Naturally, they are unhappy with the decision. Most of these people are sick, broke, and scared. Walk into any Social Security office, or try to call one on the phone, and you will see why. The claims process is slow.

I try to spend some time with claimants who are over 60, especially if they have a severe impairment, because they simply now have a bleak vocational outlook due to their age. I spoke to this lady way too much and was way too informal.

I have seen a lot of claims and have a good idea of the rules SSA uses. It is quite rare for someone over 60 who has a severe mental impairment to develop it after age 60. She claimed to be bipolar. I was trying to find out if this claimant had any prior records of treatment, as I felt that the records that were in her file were inadequate for a favorable finding. I had a brief conversation with her doctor to try to show the longitudinality of her

impairment. Her records showed that she was ill, but for a mental impairment to be disabling, it usually has to persist for some time. This record of my conversation with him is not now in the file.

This lady was not forthcoming about any prior medical history before she was 60. At no time did she say she was uncomfortable with our conversations. She did not ask to speak to my supervisor. I offered her nothing and asked for nothing. I did say that her chances for a favorable finding would be enhanced if there was a longitudinal record of mental health treatment, and that is what I tried to find.

She asked if she could email me some records. I think she wanted to send me an attachment of some sort. It is forbidden for us to tell anyone our government email. Other agencies and our own operation send us lots of them; claimants and others may not write us. So, I sent her my personal email. She never wrote me; I never wrote her on email or ever again.

My agency gave me no support and did not pay any attention to my rebuttal. As I viewed their approach to one who had done good work for 26 years, I applied for retirement. The agency director told me that she had wanted to discharge me for being inappropriate. I concluded that I could not work any more in this environment.

This lady appeared to be in dire straits. She had worked as a promotional speaker and business recruiter. She had declared bankruptcy once and was doing it again. I can only conclude that this claimant wanted me off her case when it became obvious that I wanted more records to document her claim. Her veracity, reliability, and history of treatment was not convincing.

At the DDS, my work ethic and credibility were not noted. All adjudicators are exposed to machinations of desperate people as we go about our work. That is why many people doing this job will NOT talk with a claimant. Now that I have seen the approach management has toward us, neither will I.

Thus, I have retired from state work.

David J Roberts, retiree