

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

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EXECUTIVE
ETHICS COMMISSION

RICARDO MEZA, in his capacity as)
EXECUTIVE INSPECTOR GENERAL for)
AGENCIES OF THE GOVERNOR, State)
Of Illinois,)
Petitioner,)
v.)
SHAUN STOUTAMYER,)
Respondent.)

No. 11-EEC-002

DECISION

This cause is before the Executive Ethics Commission following a stipulation by the parties filed on April 4, 2011.

Petitioner filed a verified complaint with the Commission on July 23, 2010. Respondent filed no objections to the petition, and on October 13, 2010, the Commission determined that the complaint was sufficient to proceed. In addition to the stipulation, both parties have filed briefs in support of their positions concerning an appropriate fine, if any.

Petitioner is represented by Assistant Attorney General Joanna Belle Gunderson. Respondent is represented by John Rogers.

FINDINGS OF FACT

A complete copy of the record of proceedings has been reviewed by the members of the Executive Ethics Commission. Based upon this record, the Commission makes the following findings of fact:

1. Respondent Shaun Stoutamyer has been employed by the Illinois Department of Natural Resources (IDNR) since April 1990 and is currently an office assistant.
2. In January or February of 2009, respondent took a photograph of her husband, Nick Stoutamyer, in her supervisor's office at IDNR, during her workday's State-compensated time.
3. At the time the photograph was taken, Nick Stoutamyer was a candidate for Springfield, Illinois School Board.
4. According to the investigation report attached to the parties' stipulation of facts, respondent provided this photograph to her husband's campaign manager.

5. The photograph taken by respondent in the IDNR office during State-compensated time was later used in Nick Stoutamyer's campaign literature which was distributed to the public as part of his campaign for school board.
6. Respondent was issued a written reprimand by IDNR for the conduct described above.

CONCLUSIONS OF LAW

1. Respondent Shaun Stoutamyer was at all times relevant to this complaint a State employee, as "employee" is defined in the State Officials and Employees Ethics Act ("Act") to include regular employees and appointees. 5 ILCS 430/1-5.
2. The Executive Ethics Commission has jurisdiction over respondent in the matter of her alleged performance of prohibited political activity during any compensated time. 5 ILCS 430/5-15(a).
3. "Prohibited political activity" means, among other things, "(12) Campaigning for any elective office or for or against any referendum question." 5 ILCS 430/1-5.
4. "Campaign for elective office" is defined as "any activity in furtherance of an effort to influence the selection, nomination, election or appointment of any individual to any federal, State, or local public office..." 5 ILCS 430/1-5.
5. Respondent violated Section 5-15(a) of the State Officials and Employees Ethics Act when, during State-compensated time, she took a photograph of her husband that was later used in campaign literature. 5 ILCS 430/5-15(a).
6. Respondent has admitted in her stipulation that she violated Section 5-15(a) of the Ethics Act when she used State time to take a picture of her husband that was later used in his campaign.
7. The complaint in this matter was timely filed.
8. The Executive Ethics Commission may levy an administrative fine of up to \$5,000 for a violation of the State Officials and Employees Ethics Act. 5 ILCS 430/50-5(e).

ANALYSIS

Respondent Shaun Stoutamyer violated Section 15(a) of the State Officials and Employees Ethics Act (5 ILCS 430/5-15(a), when she took a photograph of her husband during State-compensated time that was later used in campaign literature. Her stipulation admits this violation.

This admission leaves to the Commission the matter of an appropriate sanction. Petitioner seeks a fine of \$250.00 to \$500.00 and respondent suggests dismissal of the charges or, in the alternative, a finding that no monetary penalty is appropriate.

The Ethics Act does not provide any aggravating or mitigating factors for the Commission to consider when levying a fine. In mitigation, respondent has admitted to the violation, which appears to be limited to the taking of a single photograph during State-compensated time.

Respondent argues that she had no intention to violate the Ethics Act. Regardless of whether Respondent intended to violate the Ethics Act, this Commission finds that she intended to engage in the activities that constituted a violation of the Ethics Act. In any case, respondent has admitted to the violation.

In aggravation, there appears to have been some planning before obtaining this photograph. It is clear that respondent was significantly involved in husband's campaign, having provided the photograph herself directly to the campaign manager. The photograph is posed, showing Mr. Stoutamyer wearing a suit in a private State office, although he is a cement truck driver and does not work in an office setting. Respondent's assertion that this photograph was not planned simply does not ring true.

Also, respondent is a twenty-year employee of the State and should be aware of the prohibition against engaging in political activities during State-compensated time.

WHEREFORE, for the foregoing reasons, the Commission finds that respondent Shaun Stoutamyer violated Section 5-15(a) of the State Officials and Employees Ethics Act (5 ILCS 430/5-15(a)).

IT IS FURTHER ORDERED that an administrative fine of \$500.00 is levied against respondent Shaun Stoutamyer in accordance with his violation of Section 5-15(a) of the State Officials and Employees Ethics Act (5 ILCS 430/5-15(a)).

This is a final administrative decision and subject to the Administrative Review Law.