

Public Advocate of the United States Abridged Georgia Public Corruption Lexicon (2024)

A Project of Democracy

Application of O.C.G.A § 45-11-2 and Federal Statutes

O.C.G.A § 45-11-2: While this statute focuses on the sale or farming out of an office, the broader interpretation could consider if the provision of trips and cash payments to a subordinate in exchange for sexual favors constitutes an indirect way of "farming out" prosecutorial discretion or responsibilities, which could be seen as an abuse of office.

18 U.S.C.S. § 666: This statute could apply if the prosecutor, as an agent of a local government receiving significant federal funds, is involved in embezzling, stealing, obtaining by fraud, or otherwise without authority knowingly converting to the use of any person other than the rightful owner, any property valued at \$5,000 or more. The misuse of office for personal gain through trips or cash payments, especially if funded through official resources, could fall under this violation.

18 U.S.C. § 201 (b)(2)(A): If the prosecutor corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value in return for being influenced in the performance of any official act, this statute would be directly applicable. This includes any quid pro quo arrangement where personal benefits are exchanged for official favors or leniency.

18 USC §1346: Under the definition of honest services fraud, if the prosecutor engages in a scheme to deprive another of the intangible right of honest services through actions like the undisclosed provision of benefits to a subordinate in exchange for sexual favors, it could constitute a violation.

18 USC §1001: If the prosecutor or subordinate makes false statements or entries to government officials in any matter within the jurisdiction of the executive, legislative, or judicial branch, this statute could apply, particularly in covering up the misconduct.

18 U.S.C. §§ 1341; 1346, 1956(h): The issue of money laundering could arise if the cash payments admitted under oath are part of a scheme to conceal the origins of illegally obtained money, potentially involving the misuse of prosecutorial funds or emoluments. The return of cash after giving emoluments, if intended to conceal the violation of O.C.G.A § 45-11-2, could indeed be considered money laundering.

Georgia Rules of Professional Conduct

Rule 1.7 (Conflict of Interest: General Rule) and Rule 1.8 (Conflict of Interest: Current Clients: Specific Rules) highlight the ethical concerns with conflicts between the prosecutor's personal interests and professional duties. If personal relationships interfere with the prosecutor's judgment or become a priority over justice, these rules are violated.

Rule 8.4 (Misconduct) broadly prohibits actions that are prejudicial to the administration of justice, which would encompass engaging in dishonesty, fraud, deceit, or misrepresentation. The described behavior could severely impact the public's trust in the legal system and the integrity of the prosecutorial office.

Conclusion

In summary, the combination of O.C.G.A § 45-11-2 and the cited federal statutes provides a robust framework for addressing and potentially prosecuting the unethical behavior of a Georgia prosecutor. The interplay between these statutes and the Georgia Rules of Professional Conduct underscores the seriousness of such misconduct, highlighting the legal and ethical mechanisms in place to maintain the integrity of the prosecutorial role and the broader legal system.