

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

State of North Dakota, )

)

Plaintiff, )

)

vs. ) Case No. 08-2023-CR-03618

)

Jason Dean Dockter, )

)

Defendant. )

Probable Cause Hearing

Before

The Honorable Pamela Nesvig

District Judge

Thursday, December 21, 2023

Via Zoom

**APPEARANCES:**

**FOR THE PLAINTIFF:**

LADD ERICKSON

SPECIAL ASSISTANT STATE'S ATTORNEY

PO BOX 1108

Washburn, North Dakota 58577

1 (THE FOLLOWING PROCEEDINGS WERE HAD AND MADE OF  
2 RECORD, AS FOLLOWS, on December 21, 2023, commencing at 11:30  
3 A.M.:)

4 -----

5 THE COURT: All right. Mr. Erickson, not sure what to  
6 call this. I don't know who the parties are other than the  
7 State, but we're going to go ahead and start a record at this  
8 time. I have my court reporter present so that we can  
9 generate a determination if probable cause has been found by  
10 the Court to authorize the issuance of, I believe, it's a a  
11 Summons along with a Complaint or an Information, Mr.  
12 Erickson?

13 MR. ERICKSON: Yes. A Summons and complaint, Your  
14 Honor.

15 THE COURT: Okay. And then you are acting on behalf of  
16 Burleigh County for this matter?

17 MR. ERICKSON: Yes, Your Honor.

18 THE COURT: Okay. You can go ahead and present what  
19 you have for the Court.

20 MR. ERICKSON: Your Honor, I'm going to call Rebecca  
21 Binstock and she can spell her name when she gets called.

22 THE COURT: Okay. Ma'am, would you raise your right  
23 hand.

24 (Witness sworn.)

25 THE COURT: Okay. You can inquire, Mr. Erickson.

1 DIRECT EXAMINATION

2 BY MR. ERICKSON:

3 Q. Ma'am would you state your name for the court  
4 reporter.

5 A. Yes. Good morning. My name Rebecca Binstock. Spelled  
6 R-e-b-e-c-c-a and then Binstock, B-i-n-s-t-o-c-k.

7 Q. And what do you do for a living, ma'am?

8 A. I serve as the Executive Director of the North Dakota  
9 Ethics Commission.

10 Q. And are you -- what's your background, education wise  
11 -- you're an attorney; correct?

12 A. Yes, I am an attorney.

13 Q. What was background before the Ethics Commission?

14 A. So before I joined the Ethics Commission, I served as  
15 a law clerk for federal Judge Daniel Hovland for nearly nine  
16 years. Prior to that, I was in private practice doing  
17 insurance defense and then before I went law school, I was a  
18 teacher.

19 Q. So you're the executive director of the Ethics  
20 Commission and does that job have some confidential  
21 components in the work that you do and could -- go ahead.

22 A. Oh, yes. So -- would you like me to describe those?

23 Q. Yeah. Yeah.

24 A. So under Section 54-66 of the North Dakota Century  
25 Code, any information that is gathered by the Ethics

1 Commission or that is produced in the course of our  
2 investigations is considered confidential.

3 Q. And do you have a particular statute that --  
4 basically what happens is the public is able to file a  
5 Complaint against somebody with your office, with the Ethics  
6 Commission, you have a -- that's kept confidential and you do  
7 a follow-up investigation to determine if there's any merit  
8 to complaint, basically?

9 A. Yes. That's correct. So when a complaint is filed  
10 with the Ethics Commission, the Commission first does an  
11 initial review which is, essentially, a 12(b) review in the  
12 civil realm in the Ethics Commission and then the Commission  
13 moves on if there is substantial or enough information, they  
14 move on and conduct an investigation and that investigation,  
15 it remains confidential up until point that the Commission  
16 makes a finding of unethical or an ethical violation.

17 Q. Okay. So in this particular -- do you have a statute  
18 -- part of a statute that as you're doing an ethics  
19 investigation into a complaint, if you come across a belief  
20 that there might have been a crime committed, what does your  
21 statute require you to do?

22 A. So Chapter 54-56 of the North Dakota Century Code  
23 requires the Ethics Commission and requires me that we shall  
24 or that we must, I believe the language is must, if the  
25 Commission believes that there is a possibility that a crime

1 has been comitted, we are required to refer it to the  
2 appropriate law enforcement agency with jurisdiction over  
3 that possible criminal violation.

4 Q. At some point this Fall did you feel that that  
5 statute was requiring you to make a referral to law  
6 enforcement?

7 A. So on October 25th -- so the -- October 25th of this  
8 year the North Dakota Ethics Commission voted to refer a  
9 matter or a series of complaints to the Burleigh County  
10 State's Attorney that we felt we had to under that statute,  
11 under 54-66-08.

12 Q. And what did -- did Burleigh County refer that matter  
13 to me to review?

14 A. Yes. Burleigh County, because of a potential conflict  
15 that Burleigh County's office had, they then referred it to  
16 Mr. Erickson.

17 Q. Okay. And in order to provide the Court probable  
18 cause evidence for the Court to make a determination about  
19 whether that exists, absent a Court order, would you be  
20 violating what you read as your confidentially requirements?

21 A. Absent a Court order and serving as the Executive  
22 Director, I'd be violating the confidentiality requirements  
23 of our office.

24 Q. Would you feel comfortable if the Court ordered you  
25 to provide the information in an oral order here, to provide

1 the information that would help the Court determine whether  
2 probable cause exists for the Complaint that has been  
3 represented to the court?

4 A. Yes.

5 MR. ERICKSON: Okay. Your Honor, at this point the  
6 State is going to move for the Court to order Ms. Binstock to  
7 provide the Court information that she has, whether  
8 confidential or not, to the Court for the Court's ability to  
9 determine whether probable cause exists for this Complaint.

10 THE COURT: All right. And the Court will so order Ms.  
11 Binstock that you do provide that information for purposes of  
12 probable cause today.

13 Q. (Mr. Erickson continued questioning.) Okay. Who is  
14 the person that the ethical complaints were filed against  
15 that you ultimately referred to Burleigh County?

16 A. So in October 2022 the North Dakota Ethics Commission  
17 received three complaints against Representative Jason  
18 Dockter.

19 Q. And what's he a Representative of?

20 A. Sorry, he is a Representative of the North Dakota  
21 Legislative Assembly, so he serves in the House.

22 Q. And where is his -- is he a Bismarck-area legislator?

23 A. He is a Bismarck-area legislator. The complaints  
24 arose from or generally allege Representative Dockter's  
25 involvement in a lease and renovation of a building located

1 here in Burleigh County. I apologize, I'm in Burleigh County,  
2 so to clarify that. He violated ethical obligations that he  
3 had as a public official.

4 Q. Okay. And you're here today testifying because  
5 Burleigh County has conflicted out of dealing with this;  
6 correct?

7 A. Yes. The -- yes, Burleigh County.

8 Q. And the building involved, does it have anything to  
9 do with the North Dakota Attorney General's office?

10 A. It is currently -- the building is located at 1720  
11 Burlington Drive in Bismarck, but it is currently being  
12 leased by both the North Dakota Office of the Attorney  
13 General and the North Dakota Office of the Health and --  
14 excuse me, it's now the Health and Human Services Department.

15 Q. And some former Attorney General employees were  
16 involved in developing the plan with Representative Dockter,  
17 who on the side is a property owner or business manager;  
18 correct?

19 A. That is correct.

20 Q. So has the Attorney General recused themselves from  
21 any involvement in this investigation -- or in this matter?

22 A. The Attorney General's Office has recused themselves  
23 from anything with the Ethics Commission's investigation of  
24 this matter.

25 Q. So we couldn't just -- you couldn't just -- because

1 Burleigh has conflicted, you couldn't just go to a BCI agent  
2 to do the follow-up law enforcement work and appear before  
3 the Court with a probable cause affidavit, you weren't able  
4 to do that?

5 A. That's correct.

6 Q. Okay. So what was the nature and background of this  
7 building and how did Representative Dockter come to get  
8 involved in it?

9 A. So based upon our investigation, which also includes  
10 many publically-available documents, early in 2019 there were  
11 conversations between Director Lonnie Grabowska and  
12 Representative Dockter about the need for the Attorney  
13 General's Office to move into a larger building or to  
14 consolidate all of their separate divisions into one building  
15 and there was discussions early on and those were between, as  
16 I said, Lonnie Grabowska and Representative Dockter talking  
17 about the need and Representative Dockter learned about the  
18 AG's plan to relocate and the requirements and what the needs  
19 were early in 2019 and then those discussions continued into  
20 the summer and Fall of 2019.

21 Q. And did at some point the discussions between -- who  
22 was the point person at the North Dakota Attorney General's  
23 Office dealing with this?

24 A. So former Deputy Attorney General Troy Seibel was the  
25 point person. Lonnie Grabowska was also substantially



1 involved and at some point OMB Director of Facilities, John  
2 Boyle, was slightly involved as well.

3 Q. And did things move forward -- at the time then did  
4 did Representative Dockter own a building or have a pecuniary  
5 interest in the building at the time the discussions started,  
6 did he have that in relation to a building that would be  
7 acceptable for the Attorney General to lease?

8 A. He did not.

9 Q. Okay. So how did it come about that he ended up  
10 having that?

11 A. So in late 2019, in December of 2019, Parkway  
12 Property Management, which is an entity of which  
13 Representative Dockter is a member, they entered into an  
14 agreement to purchase the 1720 Burlington Drive building.  
15 They then assigned their interest in that lease -- or excuse  
16 me, in that purchase agreement to sell properties of  
17 similarly which Representative Dockter is a member.

18 Q. When you say a member, what does that mean?

19 A. So they're set up as LLCs and so they have members.  
20 Basically, they're an owner or operate the entities.

21 Q. Okay. Is Representative Dockter, is he a member of  
22 any other LLCs relative to this case?

23 A. Yes. Representative Dockter is a member of three  
24 separate entities relative to this case. One of them is  
25 Stealth Properties, LLC, another one is D&S, LLC and then a

1 third one is Frontier Contracting, LLC. To be clear, the D&S,  
2 LLC does business as Parkway Property Management, the entity  
3 that entered into the purchase agreement to purchase the 1720  
4 Burlington Drive.

5 Q. So he's a member off all these -- he's, essentially,  
6 a part owner and has a pecuniary interest in these  
7 businesses?

8 A. That's correct. He has a pecuniary interest in those  
9 businesses.

10 Q. So how did it develop that he ended up with the -- if  
11 he didn't start out with a building when the discussions with  
12 the Attorney General's Office began, how did it develop that  
13 he ended up having an interest in a property that the  
14 Attorney General is interested in?

15 A. So through the discussions in 2019, he learned of the  
16 need and there are emails and correspondence between  
17 Representative Dockter, Troy Seibel, Lonnie Grabowska and a  
18 few others possibly that I can't remember off the top of my  
19 head that talk about the needs for that, the potential -- you  
20 know, what the Attorney General's Office needs for space  
21 requirements, et cetera and the building located at 1720  
22 Burlington Drive seemed to fit those needs or at least there  
23 was the presumption that it could and so he went ahead and  
24 entered into a purchase agreement and then before that  
25 purchase agreement -- excuse me, before that purchase was

1 closed, in other words, the sale was final, Representative  
2 Dockter, through Stealth Properties at that point, then  
3 entered into a lease with the Attorney General's Office to  
4 lease that building.

5 Q. Were there any existing state leases for that same  
6 building that were inherited by Representative Dockter when  
7 he -- that was part of purchasing that building with his  
8 businesses?

9 A. Yes. There were two, so at the time, the North  
10 Dakota Department of Health was also leasing the building as  
11 well as it was called IDT -- or ITD, excuse me, ITD, which is  
12 now NDIT, but both of those entities were leasing the space  
13 in that building.

14 Q. And as of today, is there -- what -- today, what --  
15 aside from the AG's Office, is there still another agency  
16 leasing part of that building?

17 A. Yeah. So --

18 Q. Go ahead.

19 A. -- yep. I apologize for talking over you, Mr.  
20 Erickson. So, currently, the Attorney General's Office as  
21 well as the Department of Health and Human Services leases  
22 the building located at 1720 Burlington Drive from Stealth  
23 Properties of which Dockter is a member or has a pecuniary  
24 interest.

25 Q. So when Dockter and his partners eventually buy this

1 building with the intent of leasing it to the State, the  
2 current leases are there and then a new lease to the Attorney  
3 General themselves; correct?

4 A. That's correct. That is correct, excuse me. The  
5 lease that was required -- so there had to be a lease that  
6 was required in order to finance the building, so they  
7 entered the lease with the Attorney General in April of 2020  
8 and then they actually did not finalize the purchase until  
9 May 29th of 2020.

10 Q. Okay. And was the space when they purchased the  
11 property and signed the lease, was it adequate to meet the  
12 needs of the North Dakota Attorney General's Office?

13 A. It was not. There was a substantial amount of  
14 remodeling that occurred and there was also an addition that  
15 was made to the building.

16 Q. And was that contemplated during the process of  
17 developing the lease?

18 A. There was --

19 Q. Did it contemplate changes?

20 A. I apologize. Yes. Part of the lease included a  
21 stipend or an amount that would be b provided by the  
22 landlords for any modeling and then also additional  
23 construction that had to happen for the add-on that happened  
24 as well.

25 Q. Did that process cause the building to have cost

1 overruns?

2 A. So there was cost overruns on the building, yes.

3 Q. And to what extent?

4 A. To a substantial extent, I think, is probably an  
5 appropriate word for it. You know, the numbers are not exact.  
6 There's been a lot of numbers thrown out there, but  
7 approximately 1.5 to 1.7 million dollars in cost overruns  
8 that were not accounted for or were not contemplated in the  
9 original contract.

10 Q. And that was based on doing the remodeling and the  
11 addition of the square footage that was needed for the  
12 Attorney General's Office?

13 A. That's correct.

14 Q. And so construction companies were involved in doing  
15 the remodel and the addition; correct?

16 A. That is correct.

17 Q. And did Jason Dockter have any membership or  
18 ownership interest in those construction companies that got  
19 the construction contracts?

20 A. So I don't have all of those exact details in front  
21 of me, but Frontier Contracting, LLC, of the which  
22 Representative Dockter has an interest, did a substantial --  
23 or did some of the work on the building.

24 Q. How about that D&S contracting, I believe --

25 A. You know, there's a lack of -- because of the lack of

1 invoices, I don't think that I can say which entity did which  
2 work and to whom payment went. I do know that there was  
3 invoices from Parkway Property Management, which they were  
4 doing business as D&S doing business as Parkway Property  
5 Management that were sent to the office of the Attorney  
6 General.

7 Q. So you do know that Representative Dockter is a  
8 member or owner of the those LLCs doing the construction or  
9 remodeling at least in part; correct?

10 A. At least in part, yes. I do think there were other  
11 subcontractors doing work as well.

12 Q. And did that money then -- it has to come from the  
13 State and in this case, the Attorney General's Office;  
14 correct?

15 A. So in order to pay for, whether it's the rent on the  
16 lease or the cost overages, the cost overruns I should say,  
17 that money had to come out of the Attorney General's budget.

18 Q. So we have a legislative session every odd year and  
19 there was a legislative session in 2021 after Representative  
20 Dockter obtained a pecuniary interest in this property?

21 A. That is correct.

22 Q. Was a bill presented to him, a legislative bill,  
23 presented before him that approved appropriations for the  
24 Attorney General's Office and the Health Department that  
25 would have been to -- and part of the bill would have been to

1 pay Representative -- the bills that Representative Doctker  
2 and his private businesses and part owner, were presenting  
3 for the purchase of this building or the lease on this  
4 building and the construction?

5 A. That is correct. So there were two bills. Obviously,  
6 each entity or each state agency has its own budget bill so  
7 House bill 1003 was the bill approving the Office of the  
8 Attorney General's budget and then back in 2001 (sic) it  
9 would have been Senate Bill 2004, that was the budget for the  
10 Department of Health. Both of those budgets included  
11 operating expenses which included paying leases or paying  
12 rent on the leases that they had, including the space that  
13 they would rent from the 1720 Burlington Drive and  
14 Representative Dockter voted "yay" on both of those bills.

15 Q. Is there a legislative rule, internal too, that would  
16 have gave him a head's up that he wasn't allowed to vote on  
17 bills that he had a pecuniary interest in?

18 A. So both the Senate and the House have a -- I'm not  
19 sure what number off the top of my head but they both have  
20 rules that instruct legislators on how to and not to vote  
21 when there is a potential conflict of interest.

22 Q. And he voted yes despite those rules?

23 A. He did.

24 Q. And the Ethics Commission itself has ethical rules  
25 that you're investigating that haven't come to a finding yet

1 precluding someone from benefiting, as a public servant, from  
2 a situation like this?

3 A. That is correct.

4 Q. And then we have the case before the Court, so now we  
5 go -- there's another legislative session that starts in  
6 2023?

7 A. Yep. In January of 2023.

8 Q. And you're aware of this situation now based on some  
9 complaints that have been filed about it with your office?

10 A. So complaints were filed in October 2022, so by the  
11 time 2023 session rolled around, I was aware of it and the  
12 Commission were aware of the facts, yes.

13 Q. And as part of your procedures, just so the Court's  
14 aware, you have the ability to handle complaints informally  
15 or formally; correct?

16 A. So we -- I apologize. So we have to move through  
17 what we call -- I characterize as the informal resolution or  
18 informal portion of our investigation. And so at that point  
19 in January of 2023 we were in that informal kind of gathering  
20 -- fact gathering stand point of evaluating what this, you  
21 know, what these complaints looked like and what we needed to  
22 do with it. We did not -- the Ethics Commission did not move  
23 into a formal investigative stage until July of -- July 6th  
24 of 2023. Part of that reason is because during that initial  
25 review or informal kind of discussion, informal



1 investigation, the Ethics Commission is required to attempt  
2 to informally resolve the complaints.

3 Q. So when you were working on that, did you -- did  
4 Representative Dockter retain the services of a criminal  
5 defense lawyer?

6 A. He did.

7 Q. And who was that?

8 A. Mr. Lloyd Suhr here in Bismarck.

9 Q. Did you have some contacts with Mr. Suhr about the  
10 bills that were going to be presented before Representative  
11 Dockter during the 2023 session, the legislative bills?

12 A. I did. On March 30th of 2023 I had a conversation  
13 with Lloyd Suhr. Lloyd and I have known each other and worked  
14 together in our capacity as attorneys for several years, so  
15 we just had general discussions about what the Ethics  
16 Commission conflicted rules -- excuse me, conflicted interest  
17 rules were and how those would potentially apply. I  
18 obviously did not provide him legal advice but just made him  
19 aware of those, directed him to those. The North Dakota  
20 Ethics Commission's conflicted interest rules were not  
21 enacted or adopted until October of 2022, so they were  
22 relatively new and so I discussed those with him at length.

23 Q. And advised him, you know, about the appropriation  
24 bills that when they come up on this bill, he better be  
25 careful?

1           A.    So we talked about the Attorney General's bill at the  
2           time. We were still in that fact gathering stage, so I had  
3           not given thought to the Department of Health -- the  
4           Department of Health's bill, but we did talk about the  
5           Attorney General's bill.

6           Q.    So Representative Dockter, as a member of the 2023  
7           legislature, did those bills become before him involving  
8           funding to the Health Department's building needs and the  
9           Attorney General's building needs?

10          A.    They did.

11          Q.    And what happened?

12          A.    So on April 11th of 2023, House Bill 1004, which was  
13          the budget bill for the Department of Health and Human  
14          Services that was before the House and for a final passage,  
15          which included funds to pay for leasing the facility, et  
16          cetera and Representative Dockter voted "yay" on that.

17          On October 27, 2023 Senate Bill 2003, which was the AG's  
18          -- excuse me, the Attorney General's budget bill, which  
19          obviously includes, again, those operating expenses to pay  
20          for the leasing of that facility and Representative Dockter  
21          was noted as not present.

22          Q.    So when did you start your formal investigation?

23          A.    On July 6th of 2023 we notified the parties that we  
24          were beginning the formal investigation.

25          Q.    And that lead to some interviews of different

1 officials and witnesses?

2 A. So it lead to one interview and there were requests  
3 for interviews that had gone out there that were not  
4 responded to or that were not -- not responded to but we did  
5 interview one individual.

6 Q. Okay. Who wasn't responding to your request for  
7 interviews?

8 A. So those individuals we sent requests after  
9 determining -- so in July I met with -- we have a special  
10 assistant attorney general assigned to this case to represent  
11 the Ethics Commission and just to explain why, the Ethics  
12 Commission's attorney prior to -- in September -- or at the  
13 end of legislative session, I guess, of this year was the  
14 Attorney General's Office. Because of the inherent conflict,  
15 as I previously said, they had recused themselves, the Ethics  
16 Commission was required to hire a special assistant attorney  
17 general.

18 So after July, I sat down with Pat Monson, who was  
19 serving as our special assistant attorney general. We  
20 reviewed all of the documents, created an independent  
21 timeline of and reviewed quite a few public documents that  
22 were available and provided every -- had looked at every  
23 document that had been provided to use during that  
24 preliminary investigation stage and then we put together a  
25 list of three individuals that we needed to interview that

1 had kind of foundational evidence or information that would  
2 then direct the rest of our investigation. So those three  
3 individuals were John Boyle, Lonnie Grabowska and Becky  
4 Keller.

5 Q. And were you able to talk to them?

6 A. No. We were able to talk to John Boyle. So the Office  
7 of the Attorney General would not permit Ms. Keller or Mr.  
8 Grabowska -- Director Grabowska, to be interviewed by the  
9 Ethics Commission.

10 Q. So you moved forward because -- you moved forward but  
11 you weren't able to complete the investigation as you saw it  
12 at that time?

13 A. No. And at that time we really wanted to speak with  
14 those three individuals to gain more information about how  
15 this lease came to be about, the discussions that Mr.  
16 Grabowska, Director Grabowska, excuse me, had with  
17 Representative Dockter in 2019 but that we were not able to  
18 get that information.

19 I will add that we also requested documents, working  
20 documents, from the Office of the Attorney General that  
21 related to a report that was put out by their office. Again,  
22 in hopes of learning some more information and we were,  
23 again, denied access to those documents.

24 Q. And some of that is related to an independent  
25 investigation that the Legislative Audit and Fiscal Review

1 Committee had requested an outside review of this or the  
2 Attorney General or he asked another state to look at it; is  
3 that correct?

4 A. That is correct, yes.

5 So there are two separate kind of investigations that are  
6 happening at the same time or kind of simultaneously. There  
7 is an investigation by LAFRC that is happening and then this  
8 separate and distinct issue from the Ethics Commission. Many  
9 times the facts, however, intertwine in that they are helpful  
10 to give background information to the Ethics Commission's  
11 investigation.

12 Q. And who was outside state that came in to look into  
13 this?

14 A. So Montana did. Montana BCI, I believe.

15 Q. And that report was available to you?

16 A. Yes. It was communicated to us. I actually believe  
17 somebody -- perhaps maybe even a Senator that sent it to us.

18 Q. Okay. And was that because it had been provided to  
19 the committee, this LAFRC committee?

20 A. Yes.

21 Q. All right --

22 A. Can I correct -- I'm not sure how it became public,  
23 but we ended up getting a copy.

24 Q. All right. And there also was a State Auditor's  
25 report on this matter too, isn't that correct, that was

1 presented to the Legislative Committee?

2 A. That is correct. The State Auditor's report, I  
3 requested that early on directly from the State Auditor's  
4 Office along with all of their working papers and we received  
5 that early in our initial review.

6 Q. So can you -- you're working kind of with some  
7 uncooperative entities and trying to do your job as an ethics  
8 person. What starts happening towards the end of October?

9 A. So on October 25th, excuse me, prior to the  
10 Commission's October 25th meeting, during the course of some  
11 legal research, our general counsel, Logan Carpenter, finds  
12 or sees or notices a statute that -- that is potentially  
13 linked to this case and it is a criminal statute so we are  
14 mindful that if there is any possibility or any suspicion or  
15 I can't remember the exact language off the top of my head  
16 from the statute now, but if there is a criminal violation  
17 that we must refer it.

18 During the Commission's October 25th meeting, we  
19 discussed this possibility but then we also shared with the  
20 Commission that we had an interview with Mr. John Boyle for  
21 that afternoon and the Commission wanted us to move forward  
22 with that interview and then report back and kind of provide  
23 them with information based upon that interview with John  
24 Boyle.

25 Q. The statute that you're referencing is before the

1 Court right now during this hearing?

2 A. It's 54-66-08.

3 Q. No. I mean the criminal statute you were concerned  
4 about?

5 A. Yes. Yes. 12.1-32. Yes.

6 Q. All right. So you had gotten this -- so just so the  
7 Court's aware, was -- around October 25th, how long has this  
8 Montana BCI report been out there or what was actively going  
9 on in that other investigation that you're aware of?

10 A. I'm not exactly sure when the Montana report became  
11 public for everybody. I believe we received it in late  
12 September, but there was a substantial amount of back and  
13 forth between letter. Aspects of the Montana report, again,  
14 that are distinct and separate from what the Ethics  
15 Commission is working on were going to referred to you -- or  
16 referred for criminal prosecution. And that was one of  
17 reasons or the bases that the Office of the Attorney General  
18 used or cited cannot provide the individuals in their office  
19 and not providing information to the commission. And so  
20 there is a substantial amount of back and forth regarding  
21 whether that's going to referred. There's comments made  
22 publically that that is going to be referred but, again, I  
23 would note that that is separate and distinct from what the  
24 Ethics Commission was doing at the time.

25 Q. But from your information, the Attorney General's

1 Office -- did you have some information that this statute or  
2 other statutes were being referred to a state's attorney's  
3 office to address?

4 A. This particular statute that we found, no.

5 Q. Were there other ones involved in the investigation?

6 A. Yep. There were many potential regarding email  
7 deletions and cost overruns that were potentially criminal. I  
8 think the reference was procurement, but, again, not  
9 specifically to this statute.

10 Q. Okay. And where were you told that that was  
11 referred?

12 A. So we were originally told that that was referred to  
13 Haley Wamstad up in Grand Forks.

14 Q. Who told you that?

15 A. So that was told to us by the Office of the Attorney  
16 General. I can't remember if it was Mary Kae Kelsch who  
17 initially told us -- yes, I'm being told that that's correct.  
18 It was Mary Kae Kelsch who told us.

19 Q. Okay. So did you check with -- because you're with  
20 Ethics, did you check with the Grand Forks State's Attorney  
21 about that?

22 A. Yep. So we reached out to Haley in an effort to  
23 understand where they were and really just to coordinate to  
24 make sure that anything that we referred or potentially  
25 referred that we had our -- whoever it was referred to, which



1 would be Julie Lawyer because she's in Burleigh County, would  
2 then have that information and so we reached out to Haley.  
3 Haley indicated to us that it had not, in fact, been referred  
4 to her.

5 Q. At the time had it been referred to any other state's  
6 attorney's offices that you're aware of?

7 A. It had not. Not that we were aware of.

8 Q. Okay. Then after you -- after the October 25th  
9 meeting, you decided to refer this particular matter only,  
10 because this is what you had the information to report on, to  
11 Burleigh County?

12 A. That is correct. So we held, and by we, I mean the  
13 Commission. The Commission held a special meeting after our  
14 interview with John Boyle. During the interview with John  
15 Boyle, we learned that the information regarding the needs of  
16 the Attorney General's Office to move to a new building was  
17 not public and, therefore, we felt -- we felt that we needed  
18 to take that information to the Commission. The Commission  
19 voted and then voted to refer it to Julie Lawyer who was the  
20 appropriate person but as to this particular statute,  
21 12.1-13-02

22 Q. And on October --

23 A. Oh, sorry.

24 Q. Well, at that time when you guys, the Ethics  
25 Commission voted to do that, are you aware of any other

1 state's attorneys or law enforcement agencies actively doing  
2 anything in the case?

3 A. No.

4 Q. You're not aware of that -- in fact, you had  
5 information nothing else was happening at the time?

6 A. We had information that nothing else was being  
7 referred. There were comments made that LAFRC had asked the  
8 Attorney General to wait, but at that point there was nothing  
9 for us to believe that there was anybody -- any other state's  
10 attorney looking at this particular matter or anything else  
11 related to the other investigations.

12 Q. That's all that lead to the first week of November to  
13 Burleigh County sending it up to me?

14 A. Yes. So actually on October 25th I wrote a letter to  
15 Julie Lawyer referring her -- referring the matter to her. I  
16 did give her a head's up by phone call and then in the letter  
17 we asked her, because we knew that their office had a direct  
18 conflict with the matter, we then -- what we did is we asked  
19 Ms. Lawyer to refer the matter to an independent and  
20 unconflicted state's attorney and I believe that's how it  
21 ended up with you, Ladd.

22 Q. Okay. Subsequent to that referral, was there any  
23 media about that referral?

24 A. There was. So there is a statute that comes into  
25 play, 54-66-08.2 requires that the Ethics Commission provide

1 notice to both the complainant and in this case multiple  
2 complainants and to the respondent. We use the word  
3 respondent, the accused individual, which would have been  
4 Representative Dockter, that we had referred the matter for  
5 criminal review.

6 Q. And --

7 A. And then -- I was just going to say should I  
8 continue.

9 Q. Yes.

10 A. I apologize. And so I believe those letters went  
11 out either on November 8th and 9th or 9th and 10th. Two of  
12 the individuals who filed complaints with the Ethics  
13 Commission are KFGO Radio Host Joel Heitkamp and Tyler  
14 Axness. They then reported on those -- on the letters that  
15 they received during a morning show and indicated that they  
16 had received information from the Ethics Commission that it  
17 was being referred to for criminal review or prosecutorial  
18 review.

19 Q. At that point then was there some action taken to --  
20 or some announcements made about where the rest of this case  
21 was going to go?

22 A. So that afternoon Attorney General Wrigley made a  
23 statement that was reported by KFGO on the Montana report,  
24 which, again, is separate and distinct from what the Ethics  
25 Commission was looking at would then be referred to Al Koppy

1 in Morton County.

2 Q. Okay.

3 A. There was some confusion and it may have been when  
4 the statement was made that the entire matter, which may have  
5 included our investigation as well, was also going to Koppy;  
6 however, that was an inaccurate statement and the  
7 Commission's referral, to our knowledge, remains with Mr.  
8 Erickson.

9 Q. And then the -- did -- after it became public that  
10 this referral had been made, did you start getting more  
11 cooperation from agencies that hadn't been cooperating with  
12 you since then?

13 A. No.

14 Q. Any documents or anything?

15 A. Could you maybe clarify?

16 Q. Did you start receiving information you had been  
17 waiting for now that it's public that somebody is looking  
18 into this? Basically, did you get documents sent to you or  
19 anything like that?

20 A. We did get additional documents that we had  
21 requested. We still were not permitted to conduct any  
22 interviews. We had asked for documents from the Attorney  
23 General's Office related to anything that they provided early  
24 on to the Auditor's Office and then we also requested -- we  
25 had previously requested prior to the referral in October, we

1 had requested Liz Brocker's emails, who was kind of the  
2 center of email deletions but also would have had information  
3 related to how this lease -- how this lease formed.

4 Q. And since there was a conflict with Burleigh County,  
5 she works for the Burleigh County State's Attorney's office  
6 now; correct?

7 A. She does.

8 Q. Were you at the legislative hearing this week on  
9 Tuesday involving this matter?

10 A. I was.

11 Q. Were you in the audience?

12 A. Yes.

13 Q. Was there -- did the Attorney General update the  
14 Committee on the status of the reviews here and whether  
15 Morton is actually handling it?

16 A. Yes, he did.

17 Q. And what did he say?

18 A. He said that Morton County had informed him that they  
19 would not be handling the review of the Montana report and  
20 that somebody else would need be found.

21 Q. I guess what's puzzling, ma'am, and maybe you could  
22 provide some context for the Court is when the BCI agent --  
23 when BCI from Montana sends this report to the Attorney  
24 General's Office, why wasn't that report just referred to  
25 Burleigh County and Burleigh County, if they felt conflicted,

1 they would have to find a state's attorney. Has that ever  
2 been done?

3 A. To my knowledge, I don't think so. I -- the last  
4 update that I got was from Clara Ness, who is a deputy  
5 attorney general. I apologize, I just wanted to clarify her  
6 title. And she indicated to me that the Attorney General had  
7 referred the building matter to the state's attorney, Al  
8 Koppy, in Morton County and the email matter to Haley Wamstad  
9 in Grand Forks County after our discussion with you; however,  
10 based upon what Mr. Wrigley provided to the Committee earlier  
11 this week, neither of those have either happened or were sent  
12 back to Mr. Wrigley, but to my knowledge, no

13 Q. Why wouldn't he just have referred it to Burleigh  
14 County for them to address? I don't understand.

15 A. I don't have the answer to that.

16 Q. But when Burleigh County was submitted your request  
17 letter, the state's attorney got right on top of it and found  
18 an unconflicted prosecutor?

19 A. Yes. Ms. Lawyer had good communication with me and it  
20 did take a few -- a little bit of time to find somebody, but  
21 I think my request came on October 25th and I believe -- I  
22 think she reached out to you in early November.

23 Q. So right now we still don't know the status of  
24 whatever is going on with other thing?

25 A. No.

1 Q. Whether it's been referred to Burleigh County or not?

2 A. I don't know the status of that.

3 MR. ERICKSON: Okay. That's all the questions I have,  
4 Your Honor.

5 THE COURT: All right. So I do have before me a  
6 criminal Complaint, Speculating or wagering on official  
7 action or information, alleged to have occurred in Burleigh  
8 County with the -- and it's not necessarily an essential  
9 element of the offense, but the date cited on here is May 1,  
10 2023 in Burleigh County.

11 Based on the testimony presented today, the Court does  
12 find probable cause for that offense, and I will authorize  
13 the signature of the criminal Complaint in this case. We have  
14 a Summons attached and so an appearance will be required by  
15 Mr. Dockter. If he waives that appearance, we'll get other  
16 dates set, but we've got that already preset for the 9th day  
17 of January 2024 at 9:00 a.m.

18 Anything else, Mr. Erickson?

19 MR. ERICKSON: Your Honor, if the Court, when you sign  
20 that, can you send that back up to my office, the Summons and  
21 Complaint? My office will file it once we get the signed  
22 copy, so I will take care of getting it filed in Burleigh if  
23 that's okay?

24 THE COURT: Okay. That sounds just fine.

25 MR. ERICKSON: Okay.

1           THE COURT: All right. That's all for today. We're  
2 adjourned.

3                       (Hearing concluded at 12:15 p.m.)  
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Kayla Riemel

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