

**Before the Board of Ethical Conduct  
Of The Metropolitan Government of Nashville and Davidson County**

**Theeda Murphy,** )  
 )  
 **Complainant,** )  
 )  
 v. )  
 )  
 **Megan Barry,** )  
 )  
 **Respondent.** )

**ORDER**

The Board of Ethical Conduct of the Metropolitan Government of Nashville and Davidson County (the “Board”) conducted a hearing in this matter on December 19, 2018. As set forth below, the Board (1) concluded that the Respondent, Megan Barry, violated the Metropolitan Government’s Standards of Ethical Conduct, Metropolitan Code § 2.222.020 (the “Standards of Conduct”), and (2) referred this matter to the Metropolitan Council with a recommendation that the Council censure Ms. Barry.

By way of background, on February 7, 2018, Davidson County resident Theeda Murphy filed a Complaint with the Board against Megan Barry, former Mayor of the Metropolitan Government of Nashville and Davidson County (“Metropolitan Government”). The essence of Ms. Murphy’s Complaint is that Ms. Barry violated the Standards of Conduct and Executive Order 005 through her extra-marital relationship with former Metropolitan Nashville Police Department (“MNPd”) Sgt. Robert Forrest, Jr. and other actions or inactions related to MNPd business and police policy.

Under Metropolitan Code § 2.222.040(C)(1)(e), the Metropolitan Department of Law<sup>1</sup> evaluated Ms. Murphy’s Complaint and issued a report to the Board:

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<sup>1</sup> The Metropolitan Department of Law retained Klein Bussell, PLLC, now Klein Solomon, PLLC, to evaluate the Complaint and make recommendations.

- Stating whether the facts alleged in the Complaint, if true, could give rise to a violation of the Standards of Conduct; and
- Recommending that the Complaint be dismissed or that a hearing be held on the matter.

On March 7, 2018, the Board held a public meeting to evaluate the Department of Law's report and decide whether to dismiss the Complaint or hold a hearing on the matter. The Board dismissed the Complaint for lack of jurisdiction insofar as it alleged violation of Executive Order 005. Furthermore, the Board dismissed the Complaint insofar as it alleged that Ms. Barry's relationship with Sgt. Forrest, standing alone, established a violation of the Standards of Conduct. The Board voted to move forward with a hearing on Ms. Murphy's claims that: (1) Ms. Barry's relationship with Sgt. Forrest, coupled with Ms. Barry's action or inaction on MNPD business and police policy, could establish a violation of the Standards of Conduct; and (2) Ms. Barry's relationship with Sgt. Forrest "created the appearance of giving preferential treatment" due to "payment of excessive amounts of overtime."

On June 4, 2018, Ms. Murphy filed a second Complaint with the Board against Ms. Barry. Ms. Murphy's June 4th Complaint largely restated allegations from her February 7th Complaint. The only new factual allegations related to Ms. Barry's conditional guilty plea to felony theft and subsequent resignation. Ms. Murphy also restated a complaint under Executive Order 005, citing recent legislation giving the Board jurisdiction over executive orders regulating ethical standards of conduct.

As with the prior Complaint, the Department of Law, through Klein Bussell, PLLC, issued a report evaluating whether the facts alleged, if true, could be deemed a violation of the Standards of Conduct. On August 21, 2018, the Board held a public meeting to evaluate the Department of Law's report. The Board accepted Klein Bussell's conclusion that the Complaint did not state a viable claim under Executive Order 005 because retrospective

application of new legislation expanding the Board's jurisdiction would violate the Tennessee Constitution. Furthermore, the Board concluded that the Complaint's new factual allegations did not justify a separate hearing by the Board. Rather, the Board concluded that new allegations concerning former Mayor Barry's conditional guilty plea and subsequent resignation should be considered when the Board proceeded to a hearing.

On December 19, 2018, the Board conducted an evidentiary hearing on the police policy and overtime issues. Ms. Murphy was represented by attorney Daniel Ayoade Yoon. Ms. Barry was represented by attorney David Garrison.

Ms. Murphy, through counsel, called two witnesses: Sheila Clemmons Lee and Sekou Franklin. Ms. Murphy also offered various exhibits. The Board questioned a member of the audience, Arnold Hayes, about a meeting between community members and Ms. Barry in 2017. Counsel for Ms. Barry waived the presentation of evidence.

After evidence was presented and both parties made closing arguments, the Board deliberated. Through a series of roll-call votes, the Board determined as follows:

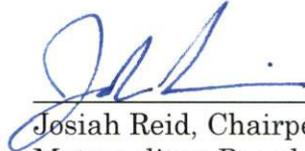
1. The evidence presented regarding Sgt. Forrest receiving excessive overtime DID NOT ESTABLISH that Ms. Barry violated Section (g) of the Standards of Conduct.
2. The evidence presented regarding Sgt. Forrest receiving excessive overtime ESTABLISHED that Ms. Barry violated Section (i) of the Standards of Conduct.
3. The evidence presented regarding Sgt. Forrest receiving excessive overtime ESTABLISHED that Ms. Barry violated Section (k) of the Standards of Conduct.
4. The evidence presented regarding Ms. Barry's relationship with Robert Forrest, coupled with her action or inaction on MNPD business and police policy, DID NOT ESTABLISH that Ms. Barry violated Section (k) of the Standards of Conduct.

Upon the Board's conclusion that Ms. Barry violated the Standards of Conduct, the Board voted to refer this matter to the Metropolitan Council with a recommendation that the Council censure Ms. Barry.

Based upon the evidence presented and argument of counsel, IT IS THEREFORE ORDERED BY THE BOARD OF ETHICAL CONDUCT, that:

1. Ms. Barry VIOLATED Sections (i) and (k) of the Metropolitan Nashville Standards of Conduct, set forth in Metropolitan Code 2.222.020.
2. Pursuant to Metropolitan Code § 2.222.040(C)(3)(a), this matter is hereby referred to the Metropolitan Council with a recommendation that the Council censure Ms. Barry on this basis.

Entered, this the 10<sup>th</sup> day of January, 2019.

  
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Josiah Reid, Chairperson  
Metropolitan Board of Ethical Conduct

**NOTICE: Anyone who may be aggrieved by any final order or judgment of any board or commission functioning under the laws of this state may have the order or judgment reviewed by the courts, where not otherwise specifically provided, by filing a Petition for Writ of Certiorari within 60 days, which petition shall be made under oath or affirmation and shall state that it is the first application for the Writ. See Tenn. Code Ann. §§ 27-8-104(a) and 27-8-106.**

cc: Daniel Ayoade Yoon, counsel for Theeda Murphy  
David Garrison, counsel for Megan Barry  
Saul Solomon  
Kevin Klein