



ORIGINAL

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA

AUG 19 2024

JOHN D. HADDEN
CLERK

TODD HIETT, Commissioner of the Oklahoma
 Corporation Commission,

 Petitioner,

 vs.

 BOB ANTHONY, Commissioner of the Oklahoma
 Corporation Commission,

 Respondent.

Sup. Ct. Case No. **#12244 1**

**APPLICATION TO ASSUME ORIGINAL JURISDICTION AND
 PETITION FOR WRIT OF PROHIBITION TO PROHIBIT CORPORATION
 COMMISSIONER BOB ANTHONY FROM ACTING OUTSIDE THE AUTHORITY
 GRANTED TO HIM BY THE OKLAHOMA CONSTITUTION AS AN OKLAHOMA
 CORPORATION COMMISSIONER**

1. This action seeks relief against Bob Anthony ("Anthony") in his role as a Corporation Commissioner. Anthony has claimed and is exerting powers not granted to him as a Commissioner by the Oklahoma Constitution under Article 9 in an attempt to taint what is supposed to be a fair, impartial, and independent investigation of all Commissioners at the Corporation Commission. This Court has jurisdiction pursuant to the Oklahoma Constitution. See OKLA. CONST. ART. 9, §20.

2. Anthony has been a Corporation Commissioner since 1988. Due to an amendment to the Constitution in 2010, Anthony will "term out" on January 13, 2025. During his early years in office, Anthony agreed to assist the FBI in an investigation and wore a wire, which ultimately led FBI investigators to determine that former Oklahoma Corporation Commissioner Bob Hopkins had taken \$15,000 in cash as a bribe for a 1989 vote in favor of Southwestern Bell Telephone.

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3. Since that time, Anthony has spoken out against and attacked a significant number of his fellow Commissioners, usually in relation to his disagreement with the Commissioner's vote on an issue. His attacks usually include allegations of corruption, and Anthony seems obsessed with his belief that other Commissioners and employees of the Commission are, in fact, corrupt and/or colluding with the public utilities over which the Commission has regulatory authority.

4. Some Commissioners have spoken out against Anthony for his actual abuses of power, with former Commissioner Ed Apple, for example, writing a dissenting opinion in 2002, in which Apple documented a "flagrant...misuse of his official power" and noted Anthony's "conduct has been delusional, deceitful, duplicitous and in short, has been in violation of his Oath of Office." Among other conduct, Apple noted Anthony had seemed obsessed with punishing ONG by gaining information in the case by which to do so; had engaged in a manner that cost the company hundreds of thousands of dollars in legal fees (which Apple noted were paid to its counsel who was also Anthony's former protégé and employee); and had used ethics rules as a political weapon.

5. Further, and since the 1994 FBI investigation, Anthony became obsessed with reversing the Order resulting from the 1989 vote and expended public funds to do so despite being told his conduct was not authorized by the Constitution. In 2002, Attorney General Drew Edmondson confirmed Anthony's understanding that Anthony had no Constitutional authority to act unilaterally as a Commissioner, i.e., without the concurrence of the Commission. Edmondson expressed his concern that "quite frankly, in light of the comments made to me at our early morning conversation on the 31st, and the understanding of the law you express, I am

at a loss to understand the reason for the litigation you encouraged the Commission to pursue” in relation to the 1989 vote and resulting Order.

6. Despite this admonition, Anthony unilaterally filed a case in the Commission in 2003, which was a “Notice of Inquiry by Commissioner Bob Anthony.” Edmondson immediately wrote Anthony and advised Anthony’s attempt to engage in unilateral investigations was not permitted and was “in violation of AG Opinion 97-76” and any funds spent in support of the 2003 case “may well constitute misappropriation of public funds.”

7. Anthony continued to cause the expenditure of public funds on the action, including by refiling with this Court a request to reverse its mandate in Supreme Court Case No. 74,194. This filing related to this Court’s Opinion in *State ex rel. Henry v. Southwestern Bell Tel. Co.*, 1991 OK 134, 825 P.2d 1305, which was an appeal of PUD 860000260 (the Hopkins’ bribed vote Commission case). On February 8, 2010, this Court issued an Order in response to Anthony’s filing, finding Anthony had “failed to advance any new factual or legal argument” from a Suggestion filed by him on March 27, 1997, and found the “proceeding is barred by issue and claim preclusion.” See Order filed in Supreme Court Case No. 74,194 on 2/8/2010.

8. Undeterred, Anthony sought to reopen the 2003 case Attorney General Edmondson had advised resulted in Anthony acting outside of his Constitutional authority as a Commissioner and might result in the misappropriation of public funds. When Anthony sought to reopen the 2003 case in 2011, then Attorney General Scott Pruitt’s office advised Anthony that “it would constitute a misappropriation of public funds to initiate, or otherwise facilitate an attempt” to reopen the case.

9. Anthony's obsession with and belief that corruption must exist somewhere within the Commission has led Anthony to also repeatedly accuse his fellow Commissioners (current and former) of corruption, especially when they disagree with Anthony. His disagreement with a vote in 2023 caused Anthony to write of what he referred to as "a putrid core of greed" and "public corruption."

10. For 20 years and many year after J.C. Watts had left his office as a Corporation Commissioner, Anthony made accusations against him causing J.C. Watts to question Anthony's mental stability in a public filing, noting the fact that, though Watts had never been a target of law enforcement or accused of any wrongdoing, it "appears that Anthony believes that both the FBI and the Justice Department are either incompetent compared to his investigative and legal skills or that the FBI and the Justice Department obstructed justice."

11. Anthony's claims of corruption continue, including repeated claims to Attorney General Drummond regarding alleged collusion of Commission employees with the employees of the entities the Commission regulates. These continued claims caused Drummond to write Anthony and advise him to produce the proof he alleges to have, or "resist making further inflammatory comments about any unsubstantiated theory of collusion between the utility companies and state employees."

12. Consistent with his prior behavior and undeterred by the fact that he has been advised two Attorneys General that a Commissioner is not permitted to act unilaterally, Anthony has filed a new case with the Commission wherein Anthony claims for himself, the unilateral authority to initiate and perform an investigation into alleged Commission corruption. The case is Commission Case No. GD-2024-00003 and captioned "In the Matter of Commissioner Bob Anthony's Inquiry Into the Performance or Nonperformance of

Constitutional Duties and Responsibilities at the Oklahoma Corporation Commission and His Inquiry/Examination/Inspection of Past Corruption and Improper Conduct Involving the Commission, Its Staff and Its Commissioners, Pursuant to Oklahoma Constitution Article 9 Section 16, 17, 18, 19, 25, 28, 29 and Article 15, Section 1 and Schedule 15.”

13. Anthony has filed this case despite the fact that the Commission’s General Counsel and Administrator have, in the performance of their duties, retained Riggs Abney to “conduct an independent investigation of Commissioner misconduct impacting Commission employees or others who do business with the Commission.” This scope is important as Anthony too has been the subject of complaints, including a written complaint by fellow Commissioner Kim David, noting that Anthony’s words bordered on sexual harassment. Anthony has expressed public skepticism regarding the legitimacy of the Commission’s retaining Riggs Abney and engaged in measures and conduct designed to taint the investigation and focus it entirely on Commissioner Hiatt. Anthony has written letters and made demands on Riggs Abney designed to bully and intimidate their attorneys, and to push the investigation toward his predetermined outcome.

14. Anthony has engaged in all of this conduct in his official capacity as a Corporation Commissioner. He has made all of his actions public by filing the documents in the Commission case he recently filed wherein he contends he will perform an investigation into the Commission. And, his pursuit of these matters includes expenditures of public funds, including by utilizing the Corporation case to make official and public calls for Hiatt’s resignation and utilizing the Commission’s public meetings to attempt to shame Commissioner Hiatt, taint the independent investigation, and make repeated calls for Commissioner Hiatt’s resignation.

15. The Petitioner herein asks this Court to grant him a Writ of Prohibition and prohibit Commissioner Anthony from taking any further part in the independent investigation, including by attempting to unilaterally invoke his authority as a Corporation Commissioner to perform his own investigation, and from making further public comment or filings related to the investigation and which are designed to taint the investigation in favor of Anthony's desired outcome all of which results in the expenditure of public funds. Commissioner Hiatt requests this writ of prohibition to prevent Anthony from continuing to act outside of the authority granted him by the Constitution and to prevent the further wrongful expenditure of public funds, especially here, where the Commission has engaged a third party to perform an investigation into the conduct of all Commissioners.

16. Commissioner Anthony has claimed his power to act pursuant to Oklahoma Constitution at Article 9, §§16, 17, 18, 19, 25, 28, and 29, and Article 15, §1. This Court has held that, "[t]he Corporation Commission is a tribunal of limited jurisdiction and has only such jurisdiction and authority as is expressly or by necessary implication conferred upon it by the Constitution and statutes of this state." *Oklahoma Gas & Elec. Co. v. Corp. Commission*, 1975 OK 15, ¶, 543 P.2d 546 (Citation Omitted).

17. In applying rules of construction for the Constitution both this Court and the Attorney General have concluded that the Commission's powers are granted to it as a body acting in concurrence. *See Clements v. Southwestern Bell Telephone*, 2017 OK 107, ¶16 413 P.3d 539 (holding the "Commission is created by Article IX of our state Constitution **and consists of three members elected by the people at a general election. A concurrence by a majority is required to exercise the authority of the state...**") (Emphasis Added); *Question Submitted by: The Honorable Ed Apple, Chairman, Okla. Corp. Commission*, 1997

OK 76 (interpreting Article 9, §28 by reference to the remainder of Article 9 and finding that despite the use of the phrase, “[t]he commissioners, or either of them...” in §28, the Constitution does not give a Commissioner the authority to take unilateral action and must have the vote of Commission).

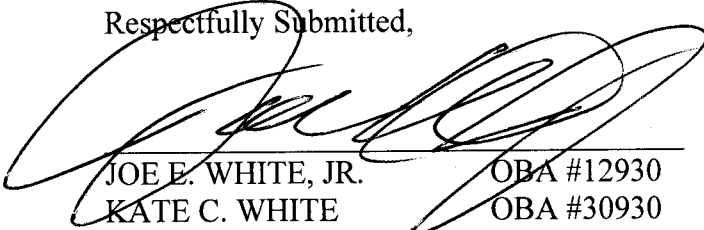
18. Clearly Anthony lacks the Constitutional authority to act unilaterally and utilize his office and public funds in the manner which he has claimed for himself. Thus, this Court should enter a Writ of Prohibition, prohibiting Commissioner Anthony’s conduct as it is in violation of the powers granted to him by the Constitution.

19. Further, this Court has held that the office of an elected official should be protected as property. *Rose v. Arnold*, 1938 OK 445, ¶¶18-19, 82 P.2d 293. Given that Anthony has also engaged in conduct designed to threaten the integrity of and taint the independent investigation to be performed by Riggs Abney, Commissioner Hiatt seeks a writ of prohibition, prohibiting Anthony from any further efforts, whether public or private, to taint, derail, or impair the independent, fair, and impartial investigation being performed by Riggs Abney as to all Commissioners. Any such efforts threaten the rights to which Commissioner Hiatt is entitled pursuant to *Rose, supra*.

20. As a result of the foregoing authorities and basic rules of Constitutional construction, Petitioner herein asks this Court to grant a Writ of Prohibition, prohibiting Anthony from acting outside of his Constitutional authority as a Commissioner and from engaging in efforts to trample Commissioner Hiatt’s rights.

Dated: August 16, 2024

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on the ¹⁹16th day of August, 2024, a true, correct, and exact copy of the above and foregoing instrument was mailed certified mail to the parties via USPS as follows:

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Gentner Drummond
Oklahoma Attorney General
Office of the Oklahoma Attorney General
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