

ENVIRONMENT

Ethics Charges in North Birmingham Case Survive Challenge

Hank Black, August 9, 2019

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Trey Glenn (Source: EPA)

The Alabama Ethics Commission did not overstep its authority in bringing state ethics charges against Onis “Trey” Glenn and Willie S. Phillips, a Jefferson County Circuit Court judge has found.

The cases are related to work by Glenn and Phillips in opposition to the addition of a proposed Superfund site in North Birmingham to the Environmental Protection Agency’s National Priorities List.

Judge Stephen C. Wallace ruled this week that the state acted properly and in compliance with the Ethics Act, and that the cases should not be summarily dismissed.

Glenn and Phillips are expected to be tried this year.

In a pre-trial motion, Glenn and Phillips claimed that the Ethics Commission “circumvented and failed to abide by certain due process procedures set forth in the Ethics Act,” according to the ruling. The two filed motions seeking to dismiss charges against them based on safeguards in the Ethics Act.

Glenn resigned as Region 4 administrator of the U.S. Environmental Protection Agency after after being indicted on the ethics charges. He is a former director of the Alabama Department of Environmental Management. Phillips has been a member of the Alabama Environmental Management Commission, which oversees that department. Both worked as consultants for a Drummond Company executive and an attorney who were convicted on bribery and other charges related to the National Priorities List decision.

Wallace wrote that both sides agreed the Ethics Commission has no independent authority to prosecute any case unless the Alabama attorney general or one of the state's district attorneys invites it to do so. He found that former Jefferson County District Attorney Mike Anderton, in written correspondence, requested assistance of Cynthia Raulston, general counsel for the Ethics Commission.

The ruling noted that the defendants claim Anderton "was in part some unsophisticated actor." But Wallace said, "Surely this Court as any court must assume that a district attorney reads and understands the official correspondence that he or she signs."

Initially, the Jefferson County District Attorney's Office declined to prosecute the cases, citing lack of resources, Wallace's ruling said. Anderton also, without explanation, instructed Jefferson County Deputy District Attorney Andrew Herring to end his involvement with the cases against Glenn and Phillips, which he had shepherded, according to this week's ruling.

Still pending is a motion alleging malicious prosecution based on Raulston being the sister of a former executive director of Gasp, a clean-air advocacy group.