



ALAN WILSON
ATTORNEY GENERAL

June 13, 2022

Chief Mark Keel
South Carolina Law Enforcement Division
P.O. Box 21398
Columbia, SC 29221-1398

Re: SLED No. 33-22-0030
Subject: Election Law Violation Allegation : February 28, 2022 Telephone Call between Mark McBride and David Hucks

Dear Chief Keel:

This matter was referred to the Office of the Attorney General by letter of Solicitor Jimmy Richardson on March 21, 2022. In the letter, Solicitor Richardson asked this office to review a complaint that he had received concerning a February 28, 2022 telephone call made to Mark McBride, a candidate for Congress from David Hucks, an online news blogger with myrtlebeachsc.com, and determine whether it supported evidence of a bribe in violation of S.C. Code Ann. Section 7-25-200. In the letter, Solicitor Richardson indicated that that SLED and the Horry County Police had previously been asked by Mr. McBride to review the matter and that they had advised him it was not a bribe. Further, Solicitor Richardson indicated that Mr. McBride had reached out to him and asked to review the matter also. Solicitor Richardson asked this office to review the matter since he had already spoken with Mr. McBride about the case and to review the SLED finding to determine if a crime occurred or if further matters need to be done. I contacted SLED on March 30, 2022 and determined that they was no written SLED report in the matter to review.

In my review, I have learned that law enforcement has spoken with Mr. McBride. Kenneth Richardson, another candidate in the primary election, has made public comments numerous times in the media concerning any involvement in any offer. I have been advised that Mr. Hucks was not interviewed because he had retained counsel.

I have listened multiple times to the February 28, 2022 ten minute telephone call recorded by Mark McBride. I have also reviewed various media reports related to this telephone call. In particular, I have also reviewed numerous Facebook posted videos by Mr. McBride,¹ an undated video by Mr. Hucks on the myrtlebeachsc.com website addressing this matter, and a March 12, 2022 response by Hucks in myrtlebeachsc.com styled "An Open Letter To Mark McBride" which included a response by Mr. Hucks lawyers, and a March 6, 2022 Facebook post denial of any involvement by Ken Richardson. I have also reviewed numerous news articles where various comments and positions were summarized.

¹ McBride for Congress Facebook Live posts March 4, 2022, March 5, 2022, March 28, 2022, April 11, 2022.

It is my opinion that there is insufficient evidence in the telephone call to support a finding of a violation of S. C. Code § 7-25-200 by Mr. Hucks or a need to request further investigation in light of the earlier rejection by law enforcement at this time.² There is also insufficient evidence of criminal intent by Mr. Hucks in the 10 minute telephone call. I further find that there is no credible evidence at this time that any other candidate made an illegal or actual offer of employment to Mr. McBride or gave David Hucks actual or apparent authority to do so on their behalf. A reasonable review of the telephone call is that it was an attempt by a non-candidate to suggest that if the candidates who allegedly had minimal popularity should drop out and support someone other than the incumbent, a position with the new congressman would become available, stating it was similar to when Rodney Berry,³ an alleged candidate who dropped out in a earlier run against Representative Rice and later became employed as a staffer for the congressman in the District. There was no guarantee by Mr. Hucks or anyone else of a \$70,000 job in return for Mr. McBride dropping out. Both Hucks and McBride were aware of this from a reasonable review of the conversation. In fact, Mr. McBride acknowledged and stated his belief in subsequent public statements that Hucks could not offer a \$70,000 job. Finally, there is no evidence that Mr. McBride either solicited or accepted any alleged offer of employment or benefit if he dropped out of the race in violation of S. C. Code § 7-25-200.

It must be clear what this matter is not. It is not a case where one candidate either specifically offers or accepts future employment directly in return for the candidate dropping out of a political and endorsing the other candidate. Should such evidence be presented, S. C. Code § 7-25-200 is implicated. This was not the case in the February 28, 2022 telephone call based upon the information presented and reviewed.

Based on these facts, it is my legal opinion that the current evidence does not rise to the level of probable cause and no prosecutorial action is required. Should you have any questions or want to discuss this matter further, please feel free to contact me.

Sincerely,


Donald J. Zelenka
Deputy Attorney General

cc: Capt. Glenn Wood, SLED

² Under the South Carolina Rules of Professional Conduct, a prosecutor is ethically obligated to “refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause.” S.C. Rules of Prof’l Conduct R. 3.8. The National Prosecution Standards of the National District Attorneys Association sets forth the following factors for consideration for prosecutorial decisions. “This responsibility includes, but is not limited to, ensuring that the guilty are held accountable, that the innocent are protected from unwarranted harm, and that the rights of all participants, particularly victims of crime, are respected. National Prosecution Standards 1-1.1, National District Attorneys Association (Third Edition). “The prosecutor is making a decision that will have a profound effect on the lives of the person being charged, the person’s family, the victim, the victim’s family, and the community as a whole. The magnitude of the charging decision does not dictate that it be made timidly, but it does dictate that it should be made wisely with the exercise of sound professional judgment.” National Prosecution Standards, Standard 4.2, Charging Commentary.

³ Former Marion Mayor and former Executive Director of the Marion County Economic Development Commission joined Representative Rice’s staff on May 1, 2013. The Dillon Herald, May 1, 2013. He is currently employed with Congressman Rice. Rice was elected to the U.S. House in 2012 as the first representative for the newly created 7th district. He defeated Jay Jordan, Randal Wallace, Dick Withington, James Mader, Chad Prosser, Katherine Jenerette, and Renee Culler in the June 12 Republican primary to advance to a runoff. In the June 26 runoff he defeated Andre Bauer. Rice defeated Gloria Bromell Tinubu in the November 6 general election. Berry was not listed as a candidate in the 2012 primary on Wikipedia.