

October 26, 2007

Victor Ortino
Post Office Box 10063
Naples, Florida 34101

Dear Mr. Ortino:

I am in receipt of a letter from you to Undersheriff Rambosk dated October 22. As I am sure you are aware, I take all allegations of law and policy violations seriously, and felt compelled to devote Agency resources to address your complaint.

It is disturbing that your allegation of violations of Florida law appear to be frivolous and not supported with any corroborating facts. You have apparently not availed yourself of resources which would have clarified some of these issues prior to making such allegations.

First, Undersheriff Rambosk participated in the Columbus Day parade at my direction in uniform representing the Collier County Sheriff's Office. Although the Undersheriff was clearly not campaigning by merely riding in a marked agency vehicle, he is permitted by law to attend political functions in uniform. This has been verified with the Florida Elections Commission and is supported by a recent Commission on Ethics opinion (CEO 07-24).

Furthermore, the Florida Elections Commission has advised the distribution of campaign material is appropriate in a parade where Undersheriff Rambosk is representing the Agency as long as the material is not distributed by on-duty CCSO members or from a CCSO-owned vehicle. Neither of those occurred during the Columbus Day parade.

Second, you should refer again to CED 07-24 regarding the wearing of a uniform during Undersheriff Rambosk's campaign announcement. The Undersheriff is authorized by law and CCSO policy to wear his uniform during political/campaign events.

Third, you allege CCSO personnel were requested to attend Undersheriff Rambosk's campaign announcement while on duty, but have failed to include a factual basis for this allegation. This allegation is false. Although it occurred in a very public place during the lunch hour, and there were numerous CCSO members present, I can state that members were advised not to attend the announcement while on duty.

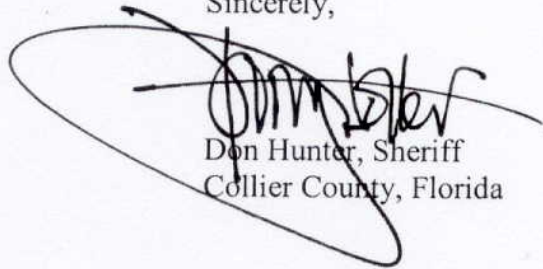
Finally, you encourage Undersheriff Rambosk to take a leave of absence during his campaign. As you know, I have announced I will not seek reelection as the incumbent Sheriff, therefore there is no requirement that the Undersheriff take a leave of



absence, and he will be allowed to continue to work full-time in his capacity as the Undersheriff during his campaign. If you had reviewed the Division of Elections opinion DE 00-08 you would have realized Undersheriff Rambosk is not required to take a leave of absence.

If you are aware of specific facts that support allegations of inappropriate or criminal conduct, I encourage you to bring them forward. However, I am also compelled to advise you that you may be in violation of the law if you willfully make false or malicious charges against opposing candidates for the Office of Sheriff. I have attached a copy of Florida State Statute, Section 104.271 for your review.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Hunter", is written over a large, hand-drawn oval. The signature is somewhat stylized and overlaps the oval.

Don Hunter, Sheriff
Collier County, Florida

West's F.S.A. § 104.271

C

Effective: [See Text Amendments]

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

→ **104.271.** False or malicious charges against, or false statements about, opposing candidates; penalty

(1) Any candidate who, in a primary election or other election, willfully charges an opposing candidate participating in such election with a violation of any provision of this code, which charge is known by the candidate making such charge to be false or malicious, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083 and, in addition, after conviction shall be disqualified to hold office.

(2) Any candidate who, in a primary election or other election, with actual malice makes or causes to be made any statement about an opposing candidate which is false is guilty of a violation of this code. An aggrieved candidate may file a complaint with the Florida Elections Commission pursuant to s. 106.25. The commission shall adopt rules to provide an expedited hearing of complaints filed under this subsection. Notwithstanding any other provision of law, the commission shall assess a civil penalty of up to \$5,000 against any candidate found in violation of this subsection, which shall be deposited to the account of the General Revenue Fund of the state.

CREDIT(S)

Laws 1953, c. 28156, § 44; Laws 1971, c. 71-136, § 48; Laws 1977, c. 77-104, § 27; Laws 1977, c. 77-175, § 35; Laws 1985, c. 85-210, § 1. Amended by Laws 1995, c. 95-147, § 627, eff. July 10, 1995; Laws 1997, c. 97-13, § 44, eff. Jan. 1, 1998.

LAW REVIEW AND JOURNAL COMMENTARIES

Executive suspension and removal of public officers under the 1968 Florida Constitution. William M. Barr and Frederick B. Karl, 23 U.Fla.L.Rev. 635 (1971).

LIBRARY REFERENCES

2002 Main Volume

Elections ↪ 318, 332.
Westlaw Topic No. 144.
C.J.S. Elections §§ 331, 353.

RESEARCH REFERENCES

Encyclopedias

False Swearing or Declaration--False or Malicious Charges Against, or False Statements About, Opposing Candidates, Fl. Jur. 2d Elections § 191.

© 2007 Thomson/West. No Claim to Orig. US Gov. Works.

West's F.S.A. § 104.271

West's F. S. A. § 104.271, FL ST § 104.271

Current through Chapter 322 (End) of the 2007 First Regular Session and Special B Session of the Twentieth Legislature

© 2007 Thomson/West

END OF DOCUMENT

© 2007 Thomson/West. No Claim to Orig. US Gov. Works.

<http://web2.westlaw.com/print/printstream.aspx?sv=Split&prft=HTML&mt=Westlaw&...> 10/27/2007