

COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS
: OF DAUPHIN COUNTY

V. : CRIMINAL DIVISION

ROBERT MELLOW : NO.: CP-22-CR-0003388-2013

COMMONWEALTH'S MOTION FOR NOLLE PROSEQUI

The Commonwealth of Pennsylvania, by its representative, Senior Deputy Attorney General Susan L. DiGiacomo, respectfully submits this Motion for *Nolle Prosequi* pursuant to Pennsylvania Rule of Criminal Procedure 585 for the reasons as follows:

1. On March 13, 2013, the Office of Attorney General filed criminal charges against multiple defendants including Robert Mellow relating to improper conduct in awards of contracts by the Pennsylvania Turnpike Commission to vendors.
2. The Commonwealth charges Mr. Mellow with the following offenses: Count 1 – corrupt organizations, Count 2 – conspiracy for corrupt organizations, Count 3 – commercial bribery, Count 4 – unlawful bid rigging, Count 5 – restricted activities – conflict of interest, Count 6 – restricted activities – acceptance of improper influence, and Count 7 – conspiracy to commit corrupt organization and/or commercial bribery and/or bid rigging.
3. A preliminary hearing was conducted and all charges were held for court.
4. Thereafter, Mr. Mellow filed an *Omnibus Pretrial Motion* challenging the sufficiency of the Commonwealth's evidence.
5. On October 6, 2014, this Court filed a *Memorandum Order* granting Mr. Mellow's motion and dismissing Counts 1, 2, 3, 4, 5, and 6; leaving only the conspiracy charge in Count 7 for trial.

6. After a thorough review of this Court's *Memorandum Order* by senior prosecutors in this office, and the evidence that is available and could be admissible at trial, the Commonwealth believes that it would be unable to sustain its burden of proof going forward. In a well-reasoned opinion by the Court, the Commonwealth is constrained by the Court's factual findings.
7. Specifically, this Court held there was not requisite evidence that "Mr. Mellow, in his former capacity as a state legislator, is a person who could 'hold himself out to the public as being engaged in the business of making disinterested selection, appraisal, or criticism of commodities or services.'" *Memorandum Order* dated October 6, 2014 at 5.
8. Further, this Court found that the "interaction between Defendant Mellow and Peter Danchak was anything other than personal friendship" calling into question the application of the Pennsylvania Ethics Act. *Memorandum Order* dated October 6, 2014 at 11.
9. Given the current state of the Commonwealth's evidence as it has evolved through the Court hearings, and in accord with this Court's Order, the Commonwealth is constrained to seek a *nolle prosequi* in this case.

WHEREFORE, the Commonwealth respectfully requests that this Court enter the attached proposed order of *Nolle Prosequi*.

Respectfully submitted:

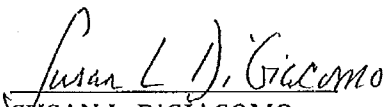


Susan L. DiGiacomo

Senior Deputy Attorney General

VERIFICATION

I, Susan L. DiGiacomo, Senior Deputy Attorney General, hereby verify that the statements contained in the attached Motion for Nolle Prosequi are true and correct to the best of my knowledge, information, and belief. This verification is given subject to the penalties set forth in 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.


SUSAN L. DIGIACOMO
Senior Deputy Attorney General

Date: 10/16/2014

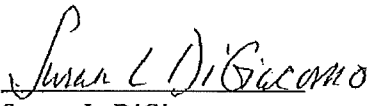
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served on the persons listed below on the date indicated by e-mail.

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Susan L. DiGiacomo
Senior Deputy Attorney General