

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION

UNITED STATES OF AMERICA : CRIMINAL NO. 3:18-CR-22-CAR
: :
v. : VIOLATION(S):
: :
BOBBY JOE SMITH, : 18 U.S.C. § 666(a)(1)(B)
: 18 U.S.C. § 242
Defendant. :
: :
_____ :

THE GRAND JURY CHARGES:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

1. Defendant Bobby Joe SMITH was a probate court judge for Hart County, Georgia.
2. As a probate judge, SMITH's responsibilities included presiding over and adjudicating traffic cases and other citations issued by various state and local agencies including the Georgia State Patrol and the Hart County Sheriff's Department.
3. In his role as a probate judge, SMITH was an agent of Hart County, Georgia.
4. In the twelve-month period beginning May 24, 2013, and continuing until May 23, 2014, Hart County received more than \$10,000 in benefits under a federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of federal assistance.
5. In the cases over which SMITH presided as a probate judge for Hart County, he had a duty to impose punishment consistent with the laws and statutes of the state of Georgia.
6. Georgia Code § 40-6-391 provides that:
 - a. The penalty for an individual's first driving under the influence conviction or plea of nolo contendere in a ten-year period includes a fine of not less than

- \$300.00 and not more than \$1,000.00 and a period of imprisonment of not less than ten days and not more than twelve months;
- b. The penalty for an individual's second driving under the influence conviction or plea of nolo contendere in a ten-year period includes a fine of not less than \$600.00 and not more than \$1,000.00 and a period of imprisonment of not less than 90 days and not more than twelve months;
 - c. The penalty for an individual's third driving under the influence conviction or plea of nolo contendere in a ten-year period includes a fine of not less than \$1,000.00 and not more than \$5,000.00 and a period of imprisonment of not less than 120 days and not more than twelve months;
 - d. And the penalty for an individual's fourth or subsequent driving under the influence conviction or plea of nolo contendere in a ten-year period includes a fine of not less than \$1,000.00 and not more than \$5,000.00 and a period of imprisonment of not less than one year and not more than five years.
 - e. The aforementioned fines are not subject to suspension, stay, or probation, except that a judge may suspend up to one half of the fine imposed conditioned upon the defendant undergoing substance abuse treatment and/or may allow the fine to be paid in installments to alleviate economic hardship.
7. Under Georgia Code § 40-6-189, any driver who is convicted of driving at a speed of 85 miles per hour or more on any road or highway or 75 miles per hour or more on any two-lane road or highway shall be classified as a "super speeder" and pay a fee of \$200.00 over and above any other fines or penalties imposed for the speeding ticket.

All fees collected under this statute are to be deposited in the general fund of the state of Georgia.

SOLICITATION OF BRIBES FROM PERSON A

8. Between in or around May 2013 and in or around May 2014, Person A, an individual whose identity is known to the grand jury, met with SMITH on multiple occasions in his judicial chambers regarding the following charges, all of which were pending before SMITH:
 - a. Charges for driving while her license was suspended or revoked, hit and run, and failure to maintain lane from on or about December 19, 2012;
 - b. A charge of driving while her license was suspended or revoked from on or about January 7, 2013;
 - c. And charges for driving under the influence and driving while her license was suspended or revoked from on or about January 16, 2013. This was at least the third driving under the influence charge Person A received in the state of Georgia.
9. During these meetings, Person A sought SMITH's assistance in reducing or eliminating her charges and/or potential punishments in those matters.
10. SMITH told Person A that she would be on private probation with him and required her to report to his office regularly and make cash payments to him. Person A visited SMITH in his office on several occasions and brought payments as requested. Over the course of several meetings between Person A and SMITH regarding Person A's charges, SMITH kissed Person A on the lips and groped Person A multiple times. On one occasion, Person A brought her young niece with her and was carrying her niece

on her hip when SMITH put his hand down Person A's skirt or pants and made contact with her vagina. Person A did not consent to SMITH's sexual advances.

11. After SMITH made these sexual advances toward Person A in his office, SMITH reduced the charges and/or punishments for all of Person A's pending offenses.

- a. For the charges Person A received on or about December 19, 2012, SMITH reduced the charge of driving with a suspended or revoked license to driving with no license on her person and imposed a \$100.00 fine. Person A's hit and run charge was "nolle prossed," and SMITH suspended that fine in full. Person A pleaded guilty to failure to maintain lane, and SMITH also suspended the fine for that offense in full. Hart County Probate Court records reflect a \$100.00 payment entered on or about April 23, 2014 in connection with these charges.
- b. The charge Person A received on or about January 7, 2013 for driving while her license was suspended or revoked was "nolle prossed," and SMITH suspended the fine for that offense in full.
- c. For the charges Person A received on or about January 16, 2013, SMITH reduced the driving under the influence charge to reckless driving and imposed a fine of \$400.00, substantially less than the \$1,000.00 minimum and \$5,000.00 maximum fine mandated for the original charge. SMITH also reduced the charge for driving on a suspended or revoked license to driving with no license on her person and imposed a \$100 fine. Hart County Probate Court records reflect a \$400.00 payment entered on or about April 23, 2014 and a \$100.00 payment entered on or about April 25, 2014 in connection with these charges.

SOLICITATION OF BRIBES FROM PERSON B

12. Between in or around October 2013 and in or around May 2014, Person B, an individual whose identity is known to the grand jury, met with SMITH on multiple occasions in his judicial chambers regarding a driving under the influence charge and a charge for failure to maintain lane, both of which she received after leaving a doctor's appointment in which she was given medication for a migraine. This was at least the second driving under the influence charge Person B received in the state of Georgia. Person B received these charges on or about October 9, 2013, and both charges were pending before SMITH.
13. During these meetings, Person B sought SMITH's assistance in reducing or eliminating her charges and/or potential punishments in these matters.
14. In Person B's initial meeting with SMITH, SMITH and Person B discussed her charges. SMITH told Person B he would reduce her driving under the influence charge to reckless driving and substantially reduce her fine. SMITH also told Person B that he would not sentence her to any jail time or suspend her driver's license. SMITH instructed Person B return to his office at a later date to check on the status of her blood test results.
15. Over a period of several months, Person B returned to SMITH's office repeatedly to check on her test results. When Person B asked why the results were taking so long, SMITH told her it sometimes takes a year for the tests to be completed due to the laboratory being backed up.
16. Over the course of the meetings that took place between Person B and SMITH regarding Person B's charges, including the first meeting referenced above, SMITH

kissed Person B on the lips and touched Person B's breasts. Sometimes SMITH grabbed Person B's breast over her shirt, and at least once, he attempted to put his hand underneath her shirt to touch her breast. On at least one other occasion, SMITH exposed his penis to Person B and attempted to pull Person B's hand down to touch his genitals, but Person B pulled her hand away. SMITH also tried to unzip Person B's pants, but Person B backed away. During these meetings, SMITH locked the door to his judicial chambers, and sometimes SMITH also blocked Person B from getting to the door.

17. At one point, SMITH spoke to Person B over the telephone and asked if Person B knew of a private place where SMITH and Person B could have sex. Person B told SMITH, "No," and told him that he had taken her nerves about as far as they could go. Person B did not consent to SMITH's sexual advances.
18. After SMITH left office, Person B was ultimately sentenced for the charges by a judge for the Superior Courts of the Northern Judicial Circuit of Georgia in or about August 2016.

SOLICITATION OF BRIBES FROM PERSON C

19. In or around May 2014, Person C, an individual whose identity is known to the grand jury, met with SMITH in his judicial chambers regarding a "super speeder" ticket that Person C received in Bryan County, Georgia.
20. During this meeting, Person C sought SMITH's assistance in reducing her charge and/or potential punishment.
21. While Person C was present in SMITH's office, SMITH called the Bryan County probate court and left a message for the probate judge with a clerk. SMITH falsely told

the person who answered the phone at the Bryan County Probate Court that Person C was his granddaughter. SMITH also provided information about Person C's speeding ticket and stated that Person C's mother would be very upset about the ticket. SMITH informed Person C that he would contact her when he heard back from Bryan County.

22. As Person C was leaving this meeting, SMITH kissed Person C on the lips and attempted to touch Person C's breast. When Person C tried to pull away, SMITH tightened his arm around her. Person C told SMITH, "No," and was able to get out of his grip. Person C immediately left the office and did not meet with SMITH again. Person C did not consent to SMITH's sexual advances.

23. Person C's speeding ticket was ultimately resolved by a judge in Bryan County in or about May 2015.

COUNT ONE
(Federal Program Bribery)

24. The allegations contained in paragraphs one through twenty-four of this Indictment are re-alleged as if fully set forth herein.

25. From on or about May 24, 2013, to on or about May 23, 2014, in the Athens Division of the Middle District of Georgia and elsewhere, the defendant,

BOBBY JOE SMITH,

an agent of Hart County, Georgia, did corruptly solicit and demand for his own benefit, and accepted and agreed to accept, things of value from Persons A, B, and C, that is kissing, groping, and other sexual acts, intending to be influenced and rewarded in connection with a business, transaction, and series of transactions of Hart County, Georgia, valued at \$5,000 or more, that is, the traffic matters of Persons A, B, and C, and during that same one-year period, Hart County, Georgia received benefits in

excess of \$10,000 under a federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of federal assistance, in violation of Title 18, United States Code, Section 666(a)(1)(B).

COUNT TWO
(Deprivation of Rights Under Color of Law)

26. The allegations contained in paragraphs one through twenty-four of this Indictment are re-alleged as if fully set forth herein.

27. Between in or around May 2013 and in or around May 2014, in the Athens Division of the Middle District of Georgia and elsewhere, the defendant,

BOBBY JOE SMITH,

while acting under color of law, sexually assaulted Person A, thereby willfully depriving Person A of a right protected and secured by the Constitution and laws of the United States; that is, the right to bodily integrity, which includes the right to be free from sexual assault by one acting under color of law, in violation of Title 18, United States Code, Section 242.

COUNT THREE
(Deprivation of Rights Under Color of Law)

28. The allegations contained in paragraphs one through twenty-four of this Indictment are re-alleged as if fully set forth herein.

29. Between in or around October 2013 to in or around May 2014, in the Athens Division of the Middle District of Georgia and elsewhere, the defendant,

BOBBY JOE SMITH,

while acting under color of law, sexually assaulted Person B, thereby willfully depriving Person B of a right protected and secured by the Constitution and laws of the United States; that is, the right to bodily integrity, which includes the right to be free from sexual assault by one acting under color of law, in violation of Title 18, United States Code, Section 242.

COUNT FOUR
(Deprivation of Rights Under Color of Law)

30. The allegations contained in paragraphs one through twenty-four of this Indictment are re-alleged as if fully set forth herein.
31. In or around May 2014, in the Athens Division of the Middle District of Georgia and elsewhere, the defendant,

BOBBY JOE SMITH,

while acting under color of law, sexually assaulted Person C, thereby willfully depriving Person C of a right protected and secured by the Constitution and laws of the United States; that is, the right to bodily integrity, which includes the right to be free from sexual assault by one acting under color of law, in violation of Title 18, United States Code, Section 242.

A TRUE BILL.

s/ Foreperson of the Grand Jury
FOREPERSON OF THE GRAND JURY

Presented by:

CHARLES E. PEELER
UNITED STATES ATTORNEY



Daniel Bennett
DEPUTY CHIEF OF THE CRIMINAL DIVISION
U.S. Attorney's Office

ANNALOU TIROL
ACTING CHIEF, PUBLIC INTEGRITY SECTION



Heidi Boutros Gesch
TRIAL ATTORNEY
U.S. Department of Justice, Public Integrity Section

Filed in open court this 12 day of April, AD 2018.


Deputy Clerk