

BEFORE THE BOARD OF COMMISSIONERS  
ON GRIEVANCES AND DISCIPLINE  
OF THE SUPREME COURT OF OHIO

14-1390

IN RE:  
Complaint Against

ANTHONY ORLANDO CALABRESE III  
Attorney Reg.No.(0068535),

Respondent,

v.

DISCIPLINARY COUNSEL,

Relator.

Case No.: 2013-070

Respondent's Objections to  
the Final Report of the Board

RESPONDENT'S OBJECTIONS TO THE FINAL REPORT OF THE BOARD

The Respondent, Anthony O. Calabrese III, pro se, hereby objects to certain aspects of the Final Report of the Board (the "Report"). A memorandum in support is attached hereto and incorporated herein.

FILED  
OCT 06 2014  
CLERK OF COURT  
SUPREME COURT OF OHIO

Respectfully submitted,

Anthony O. Calabrese III, Respondent  
Fed.Reg.No.:57414-060  
FCI Elkton  
P.O. Box 10  
Lisbon, Ohio 44432

RECEIVED  
OCT 06 2014  
CLERK OF COURT  
SUPREME COURT OF OHIO

## MEMORANDUM IN SUPPORT

The Respondent objects to certain aspects of the Report as follows:

- Paragraph 34 of the Report references eight cases cited by the Relator and Respondent in their briefs. The Respondent is concerned that the Panel did not receive, despite proper filings, or review the Trial Brief, filed April 11, 2014; the Sanctions Brief, filed April 11, 2014; and the Closing Argument Brief, filed May 5, 2014, which all cite dozens of cases in support of Respondent's position. Specifically, the Panel in the Report does not reference any aspects of or cases cited in the Closing Argument Brief. Therefore, the Respondent respectfully requests that this Honorable Court review the Respondent's briefs and take into account the arguments propounded therein, especially the Closing Argument Brief.
- Paragraph 36 of the Report, like much of the Report, copies significant inaccurate portions of Relator's Hearing Brief verbatim. While not per se problematic to cut and paste the Relator's Hearing Brief of the Report, it is problematic when the record clearly contradicts the factual findings in the Report. For example, the Report states that there was a "rape" committed by one of the Respondent's former clients. The record does not support this outrageous and inflammatory finding. Another example is that the Report states that Respondent was under federal surveillance. Again, there is no support for such a finding.

To somehow make it appear that the Respondent approved of and countenanced his former client's action is irreponsible,

inaccurate and not the truth. The Repondent does not excuse his own conduct, but to equate an offer to settle a civil case (which later Respondent pled to as a bribery charge in State Court) as somehow approving of the underlying acts of his former client is patently unfair.

The Respondent pled to the matter in State Court because he received no additional term of imprisonment and it was the reasonable action to take to put closure on this matter. The fact that he was ever charged in State Court is "rare", "unusual" and unprecedented. See Exhibit A attached hereto.

- The Respondent also respectfully requests that this Honorable Court consider one of Respondent's primary arguments that he was not a public official and while his conduct was criminal in nature, he did not commit any of his conduct as a public official.
- The Respondent respectfully requests that this Honorable Court review this matter in relation to the mitigating factors of:
  - Mr. Calabrese is 41 years old and has paid a heavy price for this past conduct in the form of financial penalties, imprisonment, damage to reputation and separation from family.
  - Mr. Calabrese cooperated fully in these proceedings and made full and free disclosure to the Honorable Panel. In fact, Mr. Calabrese unilaterally disclosed the State convictions during a pre-hearing resulting in the Complaint being amended.
  - Mr. Calabrese has no prior disciplinary record or any client complaints.
  - Mr. Calabrese filed significant character letters from many different types of people.
  - Mr. Calabrese has made a timely good faith effort to make restitution and rectify the consequences of his misconduct.

and not unfairly treat him as a public official.

As this Honorable Court has repeatedly considered mitigating factors in public corruption-related matters, the Respondent respectfully requests that his extensive mitigating factors be considered, applicable precedent be applied and this Honorable Court indefinitely suspend the Respondent.

Respectfully submitted,



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Anthony O. Calabrese III, pro se  
Fed.Reg.No.:57414-060  
FCI Elkton  
P.O. Box 10  
Lisbon, Ohio 44432

**CERTIFICATE OF SERVICE**

30<sup>th</sup> The following was served by regular United States mail this day of September, 2014, upon:

Joseph M. Caligiuri, Esq.  
Chief Assistant Disciplinary Counsel  
250 Civic Center Drive, Suite 325  
Columbus, Ohio 43215-7411



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Anthony O. Calabrese (0068535)  
Respondent



## Cuyahoga County Prosecutor McGinty pursues corruption charges against those brought down in federal probe

Dave Davis, The Plain Dealer By Dave Davis, The Plain Dealer

Email the author | Follow on Twitter

on April 13, 2013 at 9:00 PM, updated April 13, 2013 at 9:17 PM

CLEVELAND, Ohio--Get ready for round-two in the most extensive and longest-running public corruption probe in local history.



Piggybacking on the evidence gathered in a 6-year federal investigation, **Cuyahoga County Prosecutor Timothy J. McGinty** on April 5 stunned federal officials by announcing he was bringing corruption-related charges against Anthony Calabrese III, a Bentleyville attorney who is currently awaiting sentencing in federal court after pleading guilty to 18 corruption-related charges there.

Cuyahoga County Prosecutor Timothy J. McGinty, pictured here in December 2012, plans to prosecute some of those who have pleaded or been found guilty in a federal corruption probe.

Lonnie Timmons III, The Plain Dealer

Calabrese would be the first of several prosecutions tied to the Cuyahoga County corruption scandal, McGinty's spokeswoman said at the time. The county prosecutor also is weighing charges against J. Kevin Kelley, a former county employee and key figure in the federal prosecution because he cooperated with investigators, court records show.

McGinty declined to be interviewed for this story. His spokeswoman, Maria Russo, said simply, "Prosecutor McGinty said his intent will be made clear as time progresses."

In federal court, Calabrese and Kelley are now facing prison sentences -- Calabrese at least nine years; Kelley six years or more -- for a range of corruption-related activity that includes funneling bribes to former county auditor Frank Russo and former county commissioner Jimmy Dimora.

What makes the situation so unusual, legal experts say, is that the new state charges appear to arise solely from conduct and wrongdoing uncovered by the federal probe and for which both already are facing punishment.

But McGinty's actions don't violate the double jeopardy protection provided by the U.S. Constitution, which

prohibits a person from being prosecuted twice for the same crime by the same government entity, or "sovereign" as it's known in legal terms, according to **Lewis Katz**, an expert in criminal law and professor at the Case Western Reserve University's law school.

"This is very uncommon," Katz added.

He and others said that state or federal prosecutors don't usually follow a case in the other jurisdiction with similar charges unless there's thought to be a miscarriage of justice.

A commonly cited example is the case of Rodney King, a black construction worker who became nationally known after being beaten with excessive force by Los Angeles police officers following a high-speed car chase in 1991.

The police officers were first tried in state court and acquitted of nearly all charges, which sparked the 1992 Los Angeles riots that killed 53 people. Later that year, federal prosecutors charged the police officers with violating King's civil rights and two ended up going to prison.

In the Cuyahoga County federal corruption prosecution, 62 people have pleaded or been found guilty, including commissioner Dimora, auditor Russo, two county judges, a Cleveland city councilwoman, two union officials, and several area school board members.

It's not clear for how many of these federal defendants McGinty will seek state charges, but legal experts said last week that the demand on federal agents, who gathered the evidence and would be expected to participate in trials, would be excessive. And to what end? many asked.

"You can't do it just to pile on," said **Geoffrey S. Mearns**, president of Northern Kentucky University, former provost at Cleveland State University and dean and professor of CSU's Cleveland-Marshall College of Law.

"Here . . . there doesn't appear to be any evidence that verdicts were unjust or that the prosecution was not sufficiently thorough and aggressive. So yeah, I think the concerns are valid."

"It's surprising to me that McGinty in these early stages would do something that would undermine his capacity to work cooperatively with the United States Attorney's Office and federal law enforcement authorities," Mearns added. "I guess what I would say is it seems unjustified and ill-advised."

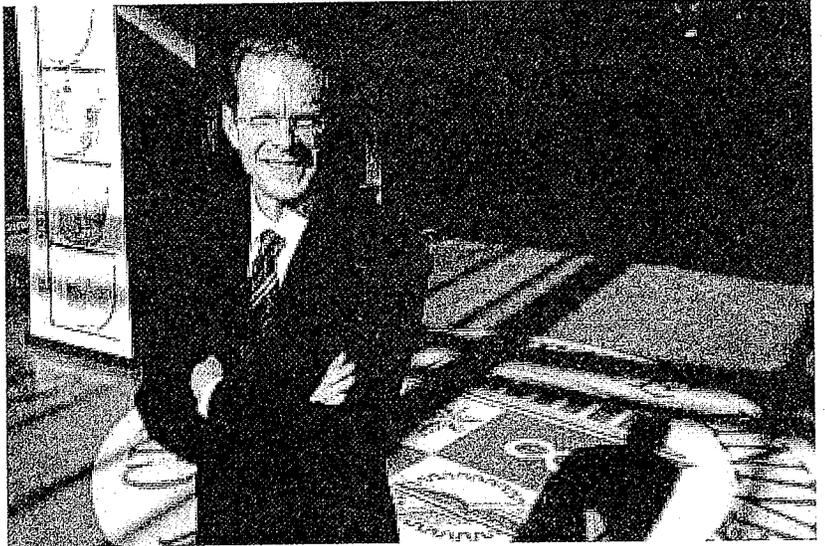


Anthony Calabrese III arrives at the federal courthouse in Akron in January.

Marvin Fong, The Plain Dealer

So, as the federal investigation winds down with the last remaining sentences expected to be handed down this summer, legal experts say the focus is now shifting to Cuyahoga County Common Pleas Court and how far McGinty will take these prosecutions. McGinty became prosecutor in October when Bill Mason stepped down, and was elected in November.

Jim Jenkins, a criminal defense attorney who represents Daniel P. Gallagher, a private consultant and retired chief of staff at the county engineer's office who pleaded guilty to bribery-related charges, said McGinty might be looking to break new ground with the prosecutions.



Geoffrey S. Mearns, president of Northern Kentucky University, said he sees no reason to pursue state charges against those facing prison in the federal corruption probe. Mearns, pictured here in 2011, is the former provost of Cleveland State University and a former federal prosecutor.

Peggy Turbett, The Plain Dealer

"I think he may be targeting the pensions of those who are receiving them who committed their offenses while they were public officials," Jenkins said. "Tim's a very innovative man. He's creative if nothing else."

But Leif Christman countered that his and other defendants in the federal county corruption prosecutions paid the "full price" in federal court. Christman represents Michael Gabor, who worked in the county auditor's office and is appealing his 2012 conviction on racketeering and other charges.

"I don't know his rationale," Christman said. "But I thought that he ran on a platform to be efficient -- not redundant -- to save the taxpayers money. This would seem contrary to that."

"He's got a right to do it," Christman added. "But why?"

Mearns, the Northern Kentucky University President and former federal prosecutor who helped prosecute one of the Oklahoma City bombers, noted that the U.S. Justice Department has a longtime policy that says that following a state prosecution, there should be no federal prosecution for the same wrongdoing unless there's a compelling reason.

It's called the "Petite Policy."

Additionally, some states don't allow a person to be prosecuted in both jurisdictions, though Ohio is not among them.

"In New York, if you get prosecuted federally, under the New York State Constitution, state authorities can't come back and prosecute you for the same crimes and the same conduct," Mearns said. "But that's because the

(state) constitution and courts have said they don't accept the dual sovereignty doctrine."

Calabrese is scheduled to be sentenced June 20 in the federal corruption case. On Jan. 15, he pleaded guilty in U.S. District Court to charges relating to bankrolling and plundering the Alternatives Agency, a Cleveland halfway house, and influencing the agency running it to hire former Lakewood Mayor Anthony Sinagra, who was paid \$195,000 from 2002 to 2007.

J. Kevin Kelley leaves the federal courthouse in Cleveland in 2009 after pleading guilty to 11 corruption-related charges. He cooperated with federal prosecutors and faces about six years in prison.  
Joshua Gunter, The Plain Dealer

Sinagra, who performed no legitimate work to justify his fee, was instructed by Calabrese to kick back some of the money to two relatives. Sinagra pleaded guilty to bribery and mail fraud on Aug. 31, 2009. Sinagra, who has yet to be sentenced, faces 2 1/2 or more than three years in prison.

Calabrese also pleaded guilty to arranging with longtime friend J. Kevin Kelley, another agency consultant who did no real work, to deliver \$80,000 in bribes. Kelley, a former Parma politician, delivered the bribes sometime in April 2008 to county commissioner Dimora and auditor Russo along with the offer of a Las Vegas trip in exchange for restoring county funding to Alternatives Agency.

*--Plain Dealer reporter Peter Krouse contributed to this story.*

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