

The Commonwealth of Massachusetts

Report

of the

Senate Committee on Ethics

CONCERNING THE CONDUCT OF

SENATOR MICHAEL D. BRADY

(pursuant to Senate Order - Senate, No. 2280)

November 14, 2019

**REPORT OF THE SENATE COMMITTEE ON ETHICS
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The Committee on Ethics, to which the Senate referred the question of the conduct of the Senator from the Second Plymouth and Bristol, Mr. Michael D. Brady, reports as follows.

I. PROCEDURAL HISTORY

A. The Criminal Proceeding

On Saturday, March 24, 2018 at approximately 2:20 a.m., Senator Brady was arrested by Weymouth police and charged with, among other things, operation of a motor vehicle under the influence of liquor, a violation of G.L. c. 90, § 24(1)(A)(1).¹ Senator Brady's arrest was reported widely in the press. According to those press reports, the Senator presented the arresting officer with a Massachusetts identification card and stated that he was a Massachusetts Senator. The press also reported that Senator Brady told police he was coming from "a work event."

More than a year later, on June 4, 2019, Senator Brady appeared before a Quincy District Court judge. In that appearance, Senator Brady admitted to sufficient facts to support a conviction for the OUI offense.² After a plea colloquy³ and on the recommendation of both the prosecutor and defense counsel, the judge entered the standard disposition for a first offense OUI charge. Under that disposition, the judge continued the OUI charge without a finding for one year. In addition, the judge suspended Senator Brady's license for 45 days, required him to complete an alcohol education program and ordered him to pay certain fines and fees, including a \$65 per month probation supervision fee. If Senator Brady complies with all the terms of the disposition, the OUI charge will be dismissed on June 2, 2020.

B. The Senate Referral

Shortly after Senator Brady's June 4, 2019 District Court appearance, the Senate requested a copy of the plea colloquy transcript. The Senate received the transcript electronically on June

¹ Senator Brady was also charged with negligent operation of a motor vehicle and a marked lanes violation. On June 4, 2019, and at the prosecutor's recommendation, the District Court judge dismissed the negligent operation charge and found Senator Brady not responsible for the marked lanes violation.

² See Transcript of Plea Colloquy Before the Honorable Daniel E. DiLorati, a copy of which is attached as Appendix A, at 4-5 and 9.

³ A plea colloquy is a conversation between a criminal defendant and a judge that is designed to ensure that the defendant understands both the charge and the consequences of pleading guilty. As lawyers phrase it, the colloquy establishes that the defendant's decision to forgo a trial and plead guilty is "knowing, intelligent and voluntary."

12, 2019. The transcript revealed that Senator Brady had admitted that the essential facts of the Commonwealth's OUI case were true (Appendix A at 5, 9) and acknowledged that he had committed a crime (Appendix A at 7).

Earlier in the year, on January 31, 2019, the Senate adopted certain changes to Senate Rule 12A, which governs referrals to the Senate Committee on Ethics. Among other changes, the Senate added a requirement that "[a]ny finding or decision by a court of law . . . which indicates sufficient facts to believe that the member . . . engaged in behavior which violated a Rule or other misconduct . . . shall be referred to the Ethics Committee." Senate Rule 12A (emphasis added).

On June 27, 2019, the Senate referred the "question of the conduct of Senator Michael D. Brady and whether he violated the rules of the Senate" to the Committee.⁴

C. The Committee's Investigation

The Committee's investigation consisted of gathering relevant documents and providing Senator Brady with an opportunity to meet with the Committee.

1. The Documents

Most of the pertinent facts were contained in three documents: the Transcript of Plea Colloquy Before the Honorable Daniel E. DiLorati, dated June 4, 2019; the Quincy District Court docket for Senator Brady's criminal case; and the Weymouth Police Department Arrest Report, dated March 23, 2018.

The most critical document was contained in the Quincy District Court docket: the Statement of Facts in Support of Application for Criminal Complaint completed by Weymouth Police Officer Christopher D'Angelo.⁵ That statement described the events leading to Senator Brady's arrest from Officer D'Angelo's point of view.⁶ Two paragraphs were of particular interest:

Upon approach to the vehicle[,] I immediately noticed the operator, now known to me as Michael BRADY . . . to have a blank stare on his face also described as the thousand yard stare. ***I asked BRADY for his license and registration at this time.*** I immediately noticed him to have bloodshot glassy eyes, slurred speech and there was a strong odor of alcoholic beverage emanating from his vehicle. ***I asked BRADY where he was coming from tonight and he stated "Boston, he was at a work event."*** I asked him if he had

⁴ A copy of Senate Order No. 2280 is attached as Appendix B.

⁵ A copy of the statement of facts is attached as Appendix C.

⁶ For the most part, the statement tracked the prosecutor's recitation of facts during the June 4, 2019 plea colloquy. However, there were some additional details in the statement: details that would have been irrelevant to the OUI charge and were properly excluded from the colloquy, but were relevant to the Committee's investigation.

been drinking tonight and he stated “yes.” Based on the erratic driving, the bloodshot glassy eyes, slurred speech and strong smell of an alcoholic beverage and BRADY admitting to consuming alcohol, ***I issued an exit order and had BRADY step to the rear of his vehicle.*** Once BRADY stepped out I immediately noticed he was unsteady on his feet and felt as if I needed to guide him to the rear of his vehicle. There was an open and lit parking lot right next to the motor vehicle stop so I asked BRADY if he could step over in the lot for his safety and mine. He subsequently understood and we walked into the lot.

Once in the lot all forward facing white and blue strobe lights were turned off on my cruiser. Officer John Hubbard arrived on the scene at this time as my backup officer. I started dialogue with BRADY asking him again where he was coming from tonight and where he was going. He again stated Boston and was heading to Brockton where he lives. ***I informed BRADY that I would be giving him some tests tonight to test his ability to operate a motor vehicle. At this time BRADY handed me a Commonwealth of Massachusetts identification card and stated he was a State Senator. I informed BRADY that I would hold onto this card for safe keeping while we complete the aforementioned tests.***

Appendix C at 2-3 (emphasis added).

2. Senator Brady’s Meeting with the Committee

The Committee invited Senator Brady and his counsel to meet on July 18, 2019. The meeting was confidential, as required by Senate Rule 12A, and limited to a presentation by Senator Brady and his counsel. Senator Brady provided the Committee with a copy of his arrest report as well as certain records documenting his voluntary treatment at an inpatient facility following his arrest.

During the meeting, the Committee and Senator Brady discussed the events leading up to his arrest. Specifically, the Committee asked Senator Brady about his interactions with Officer D’Angelo during the March 24, 2018 traffic stop. Senator Brady acknowledged that he had offered Officer D’Angelo his State House identification card during the stop. He did not remember saying “I’m a State Senator,” but he did not dispute Officer D’Angelo’s statement that he had.

Senator Brady told the Committee that he gave Officer D’Angelo his State House identification card at the beginning of the stop, when Officer D’Angelo initially asked him for his license and registration. Senator Brady explained that he was nervous and fumbling around in his glove compartment for his registration. He was also having difficulty reaching his driver’s license in his wallet, which was in his back pocket. Because his State House identification card was easier to reach in his jacket pocket, he presented it first. Senator Brady specifically remembered being inside his car when he gave Officer D’Angelo the card.

Senator Brady also gave Officer D’Angelo his license and registration at some point during the stop, but he could not remember precisely when. He did recall, however, that he was inside his car when he gave them to Officer D’Angelo. The Committee asked if Officer D’Angelo “ran” his license and registration. Senator Brady replied, “Yes.” He remembered that there was more than one cruiser at the stop and “guessed” that the officer in the other cruiser had done that.

The Committee pressed Senator Brady about timing. According to Officer D’Angelo, Senator Brady had offered his State House identification card after he was ordered to exit his car. Indeed, Officer D’Angelo asserted that Senator Brady had presented the card right after he was informed that he was about to take a series of field sobriety tests. Senator Brady did not recall that. The Committee asked whether Senator Brady offered his card in an attempt to influence the field sobriety tests. Senator Brady replied, “I don’t know.”

The Committee also asked Senator Brady about his statement to Officer D’Angelo that he was coming from a “work event” when he was stopped. Senator Brady’s counsel noted that the job of a Senator is different. What might be considered a work event for a Senator – he gave the example of a wake in the Senator’s district – might not be considered a work event by others. When pressed, Senator Brady identified the work event as a community celebration held in Brockton on the afternoon of March 24, 2018. That event continued “until the dinner hour.”

Senator Brady’s account of what happened next was less clear. Senator Brady said he had to drive to Boston to pick someone up from Logan Airport. He tried to park in the North End, but could not find parking. He needed a restroom, so he drove to the State House and used the facilities there. He then stopped off somewhere nearby – he did not say where – and ended up doing shots of whiskey with a “bunch of young people.” He left the bar and stopped at a store to get something to eat. He did not pick anyone up at the airport. Instead, at roughly 2:00 a.m., he attempted to drive home to Brockton. When stopped, he told Officer D’Angelo that he was coming from a “work event.” Senator Brady explained that he did not want to get “the place” – that is, the bar – “in trouble.” Senator Brady said it was his responsibility, “not the place.” The Committee took Senator Brady to mean that he told Officer D’Angelo that he was coming from a work event so that the bar would not get into trouble for overserving him.

II. FINDINGS

Based on all the evidence before it, the Committee makes the following findings:

- In the early hours of March 24, 2018, Senator Brady chose to get behind the wheel of his car and drive while under the influence of alcohol;
- He was stopped by Officer D’Angelo, who prepared a statement of facts describing the events leading to Senator Brady’s arrest;
- The Committee finds Officer D’Angelo’s statement to be credible, particularly his assertions that:

- He asked Senator Brady for his license and registration “upon approach” to Senator Brady’s vehicle;
- He asked where the Senator “was coming from” and Senator Brady responded that he was coming from a “work event”;
- After Officer D’Angelo issued an exit order and had Senator Brady step to the rear of the vehicle, he informed Senator Brady that he “would be giving him some tests tonight to test his ability to operate a motor vehicle”;
- At that point, when Senator Brady was outside his vehicle and had just been notified that he was about to undergo a series of sobriety tests, Senator Brady “handed [Officer D’Angelo] a Commonwealth of Massachusetts identification card and stated he was a State Senator.”
- Senator Brady’s presentation to the Committee failed to adequately address a number of critical factual issues concerning the events leading up to his arrest;
 - Specifically, Senator Brady failed to adequately address his statement that he was coming from a work event, that he presented his State House identification card to Officer D’Angelo and that he identified himself as a State Senator.
- Senate Rule 10 prohibits a member using or attempting to use “improper means to influence an agency, board, authority, commission of the Commonwealth, any political subdivision of the Commonwealth, or any other entity”;
- Senate Rule 10 also provides that “[e]very reasonable effort shall be made to avoid situations where it might appear that the member . . . is making such use of the member[’s] official position”; and
- Senator Brady violated Senate Rule 10.

III. RECOMMENDATIONS

Senate Rule 12A permits the imposition of discipline for a violation of Senate Rule 10, any other Senate rule or other misconduct. Pursuant to Rule 12A and based on the above findings, the Committee recommends that Senator Brady be removed as Senate chair of the Joint Committee on Public Service and that the Senate adopt the resolution attached as Appendix D.

Although it is not the traditional responsibility of the Committee, the Committee strongly suggests that Senator Brady continue to seek out and receive professional evaluation and appropriate treatment.

Respectfully submitted,

Senator Eric P. Lesser, Chair
Senator Cynthia Creem, Vice-Chair
Senator William Brownsberger
Senator Michael Barrett
Senator Cynthia Friedman
Senator Bruce E. Tarr
Senator Donald Humason