



April 7, 2011

J.B. Van Hollen, Attorney General
Wisconsin Department of Justice
PO Box 7857
Madison, WI 53707

RE: Request for Investigation of Assistant Attorney General Thomas C. Bellavia

Dear Attorney General Van Hollen:

I am writing to demand an investigation into the conduct of Assistant Attorney General Thomas C. Bellavia based on the attached e-mail he sent to Senator Jon Erpenbach (D-Middleton) and Senator Mark Miller (D-Monona). On February 27, 2011, he sent an e-mail (from his private account) warning these Democrat State Senators to avoid hiding out in an Illinois county that bordered Wisconsin based on State Statute 175.46.

As he notes in the e-mail (from a private account), this statute does allow Wisconsin law enforcement officers, in certain instances, to act with law enforcement authority in Illinois counties that border Wisconsin. **Attorney Bellavia also declared that he is a “political supporter of your current efforts regarding the budget repair bill.”**

The efforts referred to by Attorney Bellavia were the 14 Senate Democrats fleeing Wisconsin for Illinois to avoid voting on the Budget Repair Bill. The Democrats fled the state on February 17, 2011.

During the ten days prior to Assistant Attorney General Bellavia sending his e-mail of support to the Democrats, there are accusations that he participated in official discussions and activities within the Wisconsin Department of Justice regarding that matter since the department was being consulted by the Wisconsin State Senate on what measures might be available to force the return of the Senate Democrats.

If these accusations are true, then at a minimum, Attorney Bellavia would be guilty of violating the attorney-client privilege or at the worst a serious violation of department practices requiring his dismissal. However, another serious ethical question regarding Attorney Bellavia would be his role in defending the Wisconsin Legislature against the Open Meetings Law case being prosecuted in Dane County.

Assistant Attorney General Thomas Bellavia is one of the Department of Justice’s top experts on the Open Meeting Law and has provided some assistance to the department’s

legal team defending the leadership of the Wisconsin Legislature. Based on his avowed political support for the Democrats' efforts to stop the Budget Repair Bill, Bellavia's participation in the Open Meeting Law Case raises reasonable doubt as to his impartiality and ability to fairly defend the Wisconsin Legislature. **There are legitimate concerns that Assistant Attorney General Bellavia could attempt to sabotage the defense of the Wisconsin Legislature based on his partisan political activities.**

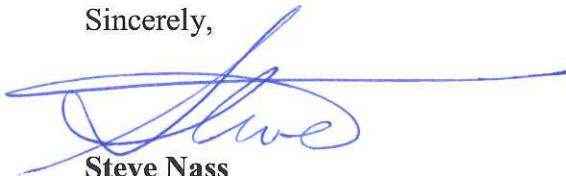
This whole matter became public because Attorney Bellavia accidentally sent his personal e-mail of support for the Democrats to a member of the Senate Republican staff on February 27, 2011. At that time, the Bellavia e-mail was shared with the Deputy Attorney General Kevin St. John.

Since that time, it is my understanding that Deputy Attorney General Kevin St. John has taken no action against Bellavia and may be attempting to sweep this matter under the rug. I wonder if he has even notified you of the existence of the Bellavia e-mail and the serious ethical concerns surrounding this senior member of your department.

Frankly, I have little faith that you or the department will take my request seriously. So, by separate letter I will be sending an urgent request to Republican leadership in the Legislature and Governor Walker to authorize the use of outside counsel to defend the Budget Repair Bill and the Open Meeting Law case.

However, your failure to act aggressively in this matter could seriously damage the public's confidence in you and your agency's role of impartial law enforcement.

Sincerely,



Steve Nass
State Representative
31st Assembly District

Enc.

cc:

Governor Scott Walker
Speaker Jeff Fitzgerald
Senator Scott Fitzgerald
All Members of the Legislature

Richard, Rob

From: Thomas C. Bellavia [bellaviatc@charter.net]
Sent: Sunday, February 27, 2011 12:53 PM
To: Sen.Erpenbach; Sen.Miller
Cc: Kuhn, Jamie; Richard, Rob
Subject: Be aware of Wis Stat s. 175.46
Importance: High

Gentlemen:

I am a political supporter of your current efforts regarding the budget repair bill. You may already be aware of this issue, but just in case, I want to bring to your attention a potential danger in your current situation.

In certain circumstances, section 175.46 of the Wisconsin Statutes may permit Wisconsin law enforcement officers to act with law enforcement authority in a border county of a neighboring state.

If this statute were to apply to the present situation of any of the fourteen democratic senators, it might allow Wisconsin law enforcement officers to cross into a border county, such as Winnebago County in Illinois, and take whatever actions they would be able to take in Wisconsin. To put it simply, if Wisconsin law enforcement can compel a member to attend the Senate in Wisconsin, they might be able to exercise the same power in a border county.

I have not researched all of the legal issues that would arise in determining the applicability of the statute to your situation, but if there is any chance that it could apply, it would be prudent for you to have an attorney perform the requisite research pronto, in order to determine whether there is really any risk and, if so, its nature and extent.

One point seems clear from the face of the statute. A Wisconsin law enforcement agency cannot act in Illinois pursuant to s. 175.46 unless it has in place a mutual aid agreement with An Illinois law enforcement agency. Such agreements must be approved by the Wisconsin Department of Justice.

Therefore, if you need to determine whether there exist any agreements that could jeopardize your current situation, you might be able to get that information via an inquiry to Wisconsin DOJ. I leave it to you and your advisors to determine whether it would be prudent to make such an inquiry. If not, then caution might suggest that you assume one or more such agreements exist and conduct yourselves so as to assure your safety – e.g. by not being physically present in any border counties and/or by not disclosing such presence to anyone who might alert Wisconsin law enforcement to your location.

Sincerely,

Thomas C. Bellavia
1101 Burning Wood Way
Madison, WI 53704