

NEWS

Jackley: Violations by Bosworth and Walker were 'serious, deliberate'

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Story Highlights

Annette Bosworth%2C Clayton Walker both face charges

Bosworth aide%3A %27She didn%27t expect this would happen this morning%27

Affidavit%3A Bosworth hadn%27t been present for many signatures she swore she circulated

Affidavit%3A Receptionist at Bosworth medical office asked patients to sign

On Tuesday night, Annette Bosworth lost the South Dakota U.S. Senate race she spent the last year seeking.

Twelve hours later, she was arrested.

Now Bosworth faces 12 felony charges: allegations she lied on her petitions to get on the U.S. Senate ballot.

Also charged is Clayton Walker, an independent who was kicked off the Senate ballot last month for the same petition problems that led to his nine charges Wednesday.

Bosworth, visibly exhausted and stressed, said on Wednesday afternoon that the charges were "political prosecution" by Attorney General Marty Jackley. On the advice of her attorney, she didn't answer a question about whether the charges were false, but suggested the errors on her petitions were innocent mistakes.

"There was no criminal intent to deceive, nor was there any reason to," Bosworth said.

But Jackley said in a statement that the violations by Bosworth and Walker were "serious, deliberate and must be addressed in order to preserve the integrity of our elections."

"We're not alleging that somebody... came in and signed a petition and put the wrong address on there," Jackley said. "These allegations are much more straightforward and deliberate."

Walker is accused of forgery and perjury on his nominating petitions. He turned in 3,374 signatures in April, but a review by Secretary of State Jason Gant found almost half of them were invalid. Many, prosecutors say, were from fictitious people living at non-existent addresses.

Bosworth's charges relate to signatures gathered while she was on a mission trip to the Philippines in January. She signed oaths that South Dakotans who had signed those petitions had done so in her presence, which prosecutors say is both perjury and filing false documents.

All the charges are Class 6 felonies, with maximum penalties of two years in prison and a \$4,000 fine.

Walker did not respond to an email seeking comment.

On Wednesday morning, Bosworth turned herself in to the Minnehaha County Jail after being contacted by a sheriff's deputy. She was released on her own recognizance. As of mid-afternoon, Walker had not yet been arrested, but a spokesman for Jackley said officials are "working on it." Late Wednesday, Jackley said there was no update on Walker.

Bosworth will make an initial appearance on June 23 at 10 a.m. in Pierre at the Hughes County Courthouse. Walker's first court date has not yet been set, but prosecutors are hoping he'll appear at the same time as Bosworth.

Jackley previously announced he was looking into several candidates at the request of Gant, who identified Bosworth and Walker as the candidates being investigated. But Jackley said he'd wait until the candidates were off the ballot before issuing any indictments to avoid influencing an election with an unproven criminal allegation.

He didn't wait long. Prosecutors brought the warrants to a judge on Tuesday evening and offered Bosworth and Walker chances to surrender on Wednesday morning.

That created a whirlwind day for Bosworth, already reeling from her loss -- the news of which she learned in a live national TV interview.

"It is a lot of stress," Bosworth said. "The hardest part was convincing my 11-year-old not to put on his (Bosworth) T-shirt today."

Bosworth aide Lee Stranahan posted live updates on Twitter and his blog of Bosworth's surrender to law enforcement.

"She didn't expect this was going to be happening this morning," Stranahan said.

Replay: '100 Eyes' on Bosworth

Last week, Bosworth admitted to signing petitions as a circulator even though the signatures had not been made in her presence, as the circulator oath on each petition states.

"Did my sister sign the petition while I was in the Philippines? Yes, she did," Bosworth said at the time. "Did I sign that I know her, and that I affirmed that was her signature? Yes, I did."

Affidavits filed by law enforcement agents say the problems with Bosworth's petitions go much deeper.

Bryan Gortmaker, director of the state Division of Criminal Investigation, said in a sworn affidavit that Bosworth hadn't been present for many of the signatures she swore she had circulated.

Gortmaker went to a Hutterite colony where Bosworth had signed saying many members had signed in front of her.

"None of the signatories we interviewed signed it in front of Dr. Bosworth," Gortmaker says in the affidavit. "Most had never met Dr. Bosworth."

Another colony, Gortmaker said, had been "contacted by phone by Dr. Bosworth" and received a nominating petition in the mail. Bosworth asked the colony to sign the petition, "and she would take care of the rest."

Gortmaker says a receptionist at Bosworth's medical office "was encouraged to ask patients to sign the nominating petition outside of the physical presence of Dr. Annette Bosworth."

"Dr. Annette Bosworth did falsely swear, under oath, that each signer personally signed the nominating petition in her presence, making them a false instrument," Gortmaker says in his affidavit.

If convicted, Bosworth could face more than just prison time from these felony charges.

Bosworth in 2012 waged a public battle against the South Dakota Board of Medical and Osteopathic Examiners to keep her medical license. She was accused of allowing a

physician's assistant to practice without a license.

Bosworth kept her license after agreeing to a mentoring program that included treatment with a psychologist and psychiatrist. It's unclear whether she is still subject to monitoring by the board. Board spokeswoman Kristi Golden said she couldn't comment.

But the criminal accusations related to her petitions could jeopardize her license to practice medicine. Under South Dakota law, any felony criminal conviction of a physician is regarded as unprofessional conduct.

Walker was kicked off the ballot following a successful challenge by Brookings resident Mary Perpich. Perpich said many of Walker's signatures weren't real people, including some celebrity names.

The DCI investigation backed up those charges. A sworn affidavit finds that investigators attempted to contact almost 20 supposed signers of Walker's petitions and found that many of those people, or the addresses listed on the petitions, did not exist.

For example, one investigator went to 627 E. Colorado Boulevard in Spearfish, where a "Mary Hawks" on Walker's petition said she lived. The home was vacant. A former resident said "the signature of the form listed as 'Mary Hawks' is the name of her dead aunt, who passed away 10 years ago," and said she didn't sign the form and was in Sioux Falls on that date.

Charges of false or fraudulent filing are rarely filed in South Dakota. Since Jan. 1, 2012, only eight cases have been filed using the statute, according to the Unified Judicial System. With the perjury statute, 18 cases have been filed since 2012.

Jackley said the Bosworth and Walker cases were pursued because of "deliberate and intentional conduct."

Each case began with citizens, however.

Both inquiries were kicked off by citizens raising questions about the candidates' nominating petitions. Blogger Cory Heidelberger of the Madville Times raised the issue of Bosworth's petitions repeatedly on his website prior to filing an affidavit with South Dakota Secretary of State Jason Gant, while Perpich filed an affidavit alleging the violations in Walker's petitions.

Heidelberger said it's clear that "the blog is inseparable from what happened," as readers did their own research on Bosworth's petitions.

The writer and liberal commentator on state politics says he submitted the affidavit for review because the law expects signatures to be witnessed, and the act of witnessing is the first safeguard against election fraud.

"That's the basic check we have in place to make sure that signatures are legitimate," Heidelbergger said.

The questions arose in part because Bosworth posted public photos from a trip to the Philippines on the same dates she'd supposedly witnessed petition signing.

Heidelbergger also has been a vocal critic of Bosworth's direct-mail fundraising for her campaign and of her business dealings, which included selling raffle tickets for her non-profit organization.

He said he acted not just because Bosworth was a candidate, but because he felt she using her candidacy as a business opportunity.

"She was fleecing people out of money with these direct mailers," he said.

A state representative, Steve Hickey, filed a lawsuit to kick Bosworth off the ballot after reading Heidelbergger's accusations. But Hickey dropped the lawsuit in part because of limited time between the petition filing deadline and when ballots had to be printed for the primary.

Perpich said she was "delighted" and "gratified" to hear of criminal charges against Walker.

"People like Clayton Walker should be held accountable for the lies that they are telling auditors and telling notaries about the work that they did on collecting signatures for petitions that never occurred," Perpich said. "I also believe that we don't need people like that running for public office in South Dakota or any other state. They essentially sully the image of all respectable candidates."

Argus Leader reporter Jonathan Ellis contributed to this report.