

IN THE BROWARD COUNTY, FLORIDA, CHARTER SECTION 10.01  
ENFORCEMENT HEARINGS FORUM

CAROL J. BREECE,  
Broward County Inspector General,  
Plaintiff

v.

Case No. EH-2026-001

ABIODUN AJAYI,  
Defendant.

This cause having come before this hearing officer on Defendant's Motion to Dismiss Complaint for Lack of Jurisdiction, and this hearing officer having read the complaint, the motion, the response, the reply, and material furnished to him, and having heard argument from the parties, it is hereby ORDERED AND ADJUDGED as follows:

***The Complaint***

1 The complaint in this cause charges Defendant with two counts of violating § 26.16(a) of the Broward County Code of Ordinances.

***Defendant's Argument***

2 Defendant asserts that this hearing officer lacks jurisdiction because, pursuant to the Broward County Charter, the alleged offenses can be, and in fact were, referred to other entities by the Inspector General.

***The Charter Provisions at Issue***

3 § 10.01(C)(1) of the Charter reads as follows:

After completing his or her investigation and determining that there is probable cause to believe misconduct has occurred, the Inspector General shall notify the appropriate civil, criminal, or administrative agencies charged with enforcement related to the alleged misconduct. If no civil, criminal, or administrative agency has jurisdiction over the alleged misconduct, the matter shall be referred to a Hearing Officer (as provided below) for quasi-judicial enforcement proceedings.

(a) The Inspector General shall refer findings of alleged criminal offenses to the Office of the State Attorney and/or the Office of the United States Attorney.

(b) The Inspector General shall refer findings of alleged civil offenses involving a violation of Chapter 112, Part III, Florida Statutes, to the Florida Commission on Ethics.

(c) The Inspector General shall refer findings of alleged violations of the Florida Election Code, Chapters 97 through 106, Florida Statutes, to the Florida Elections Commission (except as to alleged violations that may be criminal in nature, which shall be referred to the Office of the State Attorney).

(d) The Inspector General shall refer other alleged offenses to the appropriate civil, criminal, or administrative agency that would have jurisdiction over the matter.

4      § 10.01(C)(2) of the Broward County Charter goes on to state, in pertinent part, “Any civil infraction not covered by paragraphs 1(a) through (d) above shall be stated in a complaint brought in the name of the Inspector General. ... Concurrently ... , the Inspector General shall refer the complaint to a Hearing Officer ... .”

### ***Defendant’s Reading of the Provisions***

5      Defendant contends that these provisions should be read to mean that, a proceeding can be brought before a hearing officer *only* “[i]f no

civil, criminal, or administrative agency has jurisdiction over the alleged misconduct.” Defendant asserts that because the present matter was in fact referred to one or more of these agencies,<sup>1</sup> the case cannot proceed before this hearing officer.

6 Defendant’s position finds some support on the eighth of the unnumbered pages in the minutes provided to this hearing officer from the meeting of the Broward County Commission on August 8, 2010. Found there is a partial transcript reflecting how the provisions at issue were explained to the commissioners by members of the County Attorney’s Office:

MR. MEYERS: ...

Going down to line 14, the process was a little bit difficult to follow in terms of the hierarchy of where hearings wind up. And, essentially, the process that's in here now, if there's some sort of tribunal, whether it's a criminal tribunal or -- or some sort of civil tribunal, ethics, or elections, then the matter would go there and it's only if there is not -- and I'm talking about when the Inspector General finds cause and a complaint is filed, it's only if there is not another forum or tribunal that can handle that that it would go before a hearing officer.

...

Going on to D, that just expressly states what I said earlier, which is that all other alleged offenses would be referred to the appropriate civil, criminal, or administrative agency that would have jurisdiction.

And then in E, which is starting on line 11, it says, “any infractions not covered above,” in other words, there’s no existing

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<sup>1</sup> This hearing officer was informed at argument that this matter was referred to the State Attorney’s Office, which declined to proceed, and the Florida Elections Commission, which has not yet acted.

tribunal to consider them, those would be – would go to the hearing officer. It would be a complaint filed by the Inspector General.

### ***Consideration of the County Attorney's Interpretation***

7     These comments are not dispositive of this issue, however. In the first place, there is no indication that any commissioner expressed either agreement or disagreement with the County Attorney's interpretation of the meaning of the provisions.

8     More importantly, however, in assessing the meaning of charter provisions approved by voters, the intent of those placing the provisions on the ballot does not carry great weight. Rather, the question is how the public would understand the text.

9     The standard for interpreting constitutional provisions adopted at the polls by the public, a standard which has been applied equally to charter provisions, *see, e.g. City of Miami v. Gonzalez*, 419 So. 3d 677, 686 (Fla. 3d DCA 2025), is set forth in *Planned Parenthood of Southwest and Central Florida v. State*, 384 So. 3d 67, 77 (Fla. 2024) (citations omitted):

Our approach to interpreting the constitution reflects a commitment to the supremacy-of-text principle, “recognizing that “[t]he words of a governing text are of paramount concern, and what they convey, in their context, is what the text means. ... The goal of this approach is to ascertain the original, public meaning of a constitutional provision—in other words, the meaning as understood by its ratifiers at the time of adoption. ... In construing the meaning of a constitutional provision, we do not

seek the original intent of the voters or the framers. Instead, we ask how the public would have understood the meaning of the text in its full context when the voters ratified it. ...

10 Moreover, in applying this standard, courts “follow principles parallel to those of statutory interpretation.” *City of Miami v. Gonzalez*, 419 So. 3d at 686. Doing so here leads this hearing officer to the conclusion that Defendant’s position cannot withstand scrutiny.

***Expressio unius est exclusion alterius***

11 The fact that a proceeding “shall” be brought before a hearing officer when no agency has jurisdiction, as stated in the charter, merely dictates what must occur under such circumstances. The charter, however, does not address in any respect the question of whether a proceeding “may” be brought under other circumstances, including situations such as that presented here in which a matter is also referred elsewhere.

12 This issue is therefore governed by the doctrine of *expressio unius est exclusion alterius*, which establishes that “the expression of one thing is the exclusion of the other,” and which means that “when a law describes a situation where something should apply, an inference must be drawn that what is not included by specific reference was intended to be omitted or excluded.” *St. John v. Coisman*, 799 So. 2d 1110, 1113 n 3 (Fla. 5<sup>th</sup> DCA 2001). The doctrine is applicable to the interpretation of a county

charter. *Hillsborough County v. NCJ Inv. Co.*, 605 So. 2d 1287, 1287-1288 (Fla. 2d DCA 1992).

13 Since the charter provisions here do *not* include a specific (or even general) reference to situations in which matters *are* referred elsewhere, the provisions cannot be deemed to encompass such situations.

14 Additionally, since the word “only” does not precede the words “[I]f no civil, criminal, or administrative agency has jurisdiction over the alleged misconduct,” the provisions cannot be deemed to express a meaning that would in essence inject the word “only” into the charter.

15 Thus, applying this doctrine here leads to the conclusion that the charter does not, as Defendant asserts, preclude referrals to hearing officers when matters have also been referred elsewhere. Rather, the provisions do not have any impact at all on cases in which referrals are made to entities other than hearing officers. Therefore, they have no impact on this hearing officer’s jurisdiction over this matter.

### ***Absurd Results***

16 Defendant’s argument must also be found to be without merit for another reason. Another rule of statutory construction requires that the provisions at issue here, as is true for any provision, “must be construed so as to avoid absurd results.” *State v. Nunez*, 368 So. 2d 422, 424 (Fla. 3d

DCA 1979) (citation omitted). Adoption of Defendant's position would lead to precisely such results due to a number of factors.

17 For instance, what if the Inspector General (IG) has probable cause (a very low standard) to believe that an individual has committed a criminal offense, and the offense can be proven under preponderance of the evidence standard of proof applicable to cases brought before hearing officers, § 10.01(C)(5), Broward County Charter, but not under the reasonable doubt standard for criminal matters? Defendant's approach would require referral to a prosecutorial agency<sup>2</sup> but preclude the IG from going forward before a hearing officer. This would be true despite the fact that it would be clear that the agency receiving the referral could not proceed with the case and that the IG could prove misconduct before a hearing officer. The guilty individual would go unpunished.

18 The same result could occur under many other circumstances as well. A prosecutorial office could choose to exercise its discretion not to bring charges. A prosecutorial office or an agency to which a matter is referred could determine that while the individual's misconduct violated the county code, he or she did not violate a criminal statute or a provision of an

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<sup>2</sup> The parties agreed at argument that in such a situation, the IG would have to make such a referral.

applicable code, such as the elections code or the ethics code. Essentially, Defendant's position would mean that mere probable cause of a violation of criminal law or a non-Broward County code would preclude the county from enforcing its own ordinances.

19 Not only would it have that effect, but it would mean that the authority previously vested in municipalities was diminished by the charter provisions relating to the IG. It should be realized that in adopting those provisions, the electorate, in the very words of the question appearing on the ballot, also "preempt[ed] any and all Inspector General offices existing or created by County or Municipal ordinance." Unquestionably, some (probably most, and, perhaps, all) such municipal inspectors general were unfettered by the restrictions Defendant argues for. Thus, Defendant's position calls for an interpretation that the provisions were intended to reduce the level of enforcement in cases that would have previously been handled by municipalities.

20 Moreover, the charter provides no process allowing the IG to proceed before a hearing officer after referring agencies decline to go forward on cases, something that would seem to be a necessary failsafe procedure under Defendant's interpretation of the provisions. The lack of

such a process thus also supports the conclusion that Defendant's position should be read into the charter.

21 In addition, because the above quoted provisions apply only when probable cause of "misconduct" is found to exist, the limitation Defendant seeks to impose would apply *only* to allegations of "misconduct," but not to allegations of "gross mismanagement." This, despite the fact that the IG was "created to investigate misconduct *and* gross mismanagement." § 10.01 (A)(1), Broward County Charter (emphasis added). Thus, Defendant's position would require the assumption that it was the intent of the charter, without clearly stating so, to create two different procedures, one to be used for allegations of "misconduct" and the other for allegations of "gross mismanagement." Such an assumption would make no sense.

22 Further, the parties are in agreement that acceptance of Defendant's position would mean that an incredibly small number of cases would ever reach a hearing officer because cases will virtually always involve matters that can be referred to another agency. Indeed, Defendant's motion calls the hearing officer process as "a venue of last resort."

23 If this were deemed to be true, it would mean that Broward County chose to create and fund an IG's office for the almost exclusive purpose of doing investigations for other entities that have their own state

funded budgets and their own mandates to conduct investigations. This would seem to be an entirely illogical and fiscally irresponsible purpose.

24 Further, it would be inconsistent with the fact that the charter calls for the IG to refer matters “[a]fter completing his or her investigation and determining that there is probable cause to believe misconduct has occurred.” Since referral is based only on the existence of probable cause, and since probable cause can often be determined early in an investigation (and indeed facts establishing it may be the trigger for an investigation), what reason could there be for requiring the IG to “complete” that investigation (rather than refer it as soon as probable cause is found) if not to develop a case to present to a hearing officer?

25 This hearing officer will therefore not presume that an intent for Broward County to pay the costs of an IG’s office that would be nothing more than a toothless tiger existing to provide support to state funded agencies existed when the IG’s office was established or that it exists now.

26 Defendant’s counsel agreed at argument that concurrent proceedings can properly go forward in two or more agencies, but asserted that, despite this fact, a proceeding before a hearing officer cannot occur when there is also jurisdiction elsewhere. It is hard to imagine that the intent

of the charter was to allow for concurrent proceedings in all circumstances other than when one of the proceedings is before a hearing officer.

27 Such a conclusion would mean that despite the fact that an act can violate a county ordinance, while also violating a criminal statute, a provision of the ethics code, and/or a provision of the election code, the intent of the charter, as has been previously discussed, was to allow an ordinance violation to go unpunished merely because there exists probable cause (not proof under any standard) that one or more of the other violations also occurred.

28 It would additionally be inconsistent with § 1-13 (2) of the Broward County Code, which states, “The County may secure enforcement of a County ordinance *in any appropriate court or administrative proceeding* (emphasis added).”

29 It would further be inconsistent with the indisputable fact that the same act can generally be and quite often is a subject of litigation in more than one forum including administrative tribunals.

30 Given the foregoing factors, acceptance of Defendant’s argument would require presuming that the intent of the charter is to create situations in which misconduct cannot be punished, to set up different systems for assertions of misconduct and those of gross mismanagement,

to fund an IG's office that would essentially be nothing more than an investigatory arm of state agencies, to weaken enforcement in cases previously handled by municipal inspectors general, and to carve out proceedings before hearing officers as the one and only legal mechanism that cannot coexist with others. This would indeed, in the opinion of this hearing officer, be an absurd result. A ruling requiring it therefore will not be adopted.

### ***The Public's Understanding***

31 Considering the foregoing discussion in the context of the public's understanding of the text supports this hearing officer's conclusion. The public would have no idea that the proposal they voted on would have had the consequences noted in the immediately preceding paragraph (particularly given the fact that the attorney advising the County Commission admitted that even for him and them, "the process was a little bit difficult to follow in terms of the hierarchy of where hearings wind up"). But those consequences are inherent in Defendant's position.

32 What's more, it is likely that the public would not have approved the expenditure of funds had it known of the consequences that Defendant's position entails. Instructive in this regard are comments made by then-Commissioner Ilene Leiberman, when she spoke to the Broward County

Ethics Commission on June 10, 2009 (Transcript p. 32-33) during their discussion of how Broward County should proceed:

Finally, and this one is kind of delicate; money is an issue for Broward County. We're \$ 108 million short on our budget. So make sure what you do doesn't overburden the financial resources of the County. I can tell you the vast majority e-mails that I get, are from people who say, County government needs to reduce itself, we don't want to pay more money in taxes. And so some of you may be looking at the Miami-Dade Ethics Commission. I'm very familiar with the Commission. I represented people in front of that Commission. It costs Miami-Dade close to \$2 million a year. It's a very expensive proposition. And so if you go in that direction make sure that you don't simply take a model and plunk it down here, but you look at what the real effects are and what the impacts would be to County government in terms of cost, at a time when people are losing jobs and losing their homes. I'm asking you to be cost-conscious in addressing the issues that you address.

33 Commissioner Lieberman provided a vivid reminder from her own experience as an elected official of something that is generally known, the fact that the public has an active and vital interest in the amount of money government spends and the taxes paid to fund that spending and a lack of appetite for spending that does not provide sufficient value for the amount spent.

34 It is truly hard to imagine that the public would have chosen to support spending money to create a charter office that is hamstrung in the manner it would be if Defendant's position were to be accepted. No

reasonable cost-benefit analysis would consider such expenditures to be wise.

***Other considerations***

35 This hearing officer further notes that arguments the same or similar to those made by Defendant were rejected in at least two prior cases. *Scott v. Sanders*, case no. EH-2017-001; *Scott v. Haynes*, case no. EH-2015-001.

36 While this hearing officer does not find those decisions to be binding on him, he notes and considers them as persuasive authority supporting his determination.

37 This hearing officer also accepts the arguments set forth in the response filed by the IG and asserted at argument and incorporates them as additional, but independent, bases for his findings.

It is therefore ORDERED AND ADJUDGED that Defendant's Motion to Dismiss Complaint for Lack of Jurisdiction in this cause should be and hereby is DENIED.

Defendant is further ORDERED to file an answer in this cause within five days.

The parties are further ORDERED to file a proposed schedule setting deadlines for all pre-final hearing matters within five days. This proposal

shall be based on the assumption that the final hearing will *not* be continued from its currently scheduled dates. This proposed schedule shall to the extent possible be an agreed upon schedule. If one cannot be agreed upon, each party shall submit her own proposal.

DONE AND ORDERED this 10<sup>th</sup> day of April, 2026.

*Anthony C. Musto*

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ANTHONY C. MUSTO  
Hearing Officer