

United States District Court
for the
Western District of New York

United States of America
v.
JOSEPH A. ERRIGO
Defendant

Case No. 18-MJ- 4/43

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

Between on or about the date of September 4, 2017 through April 13, 2018 in the county of Monroe in the Western District of New York, the defendant violated 18 U.S.C. §§ 666 & 1343, an offense described as follows:

the defendant did knowingly violate Title 18, United States Code, Section 666, that is, he did accept and agree to accept cash in the amount of at least \$5,500 intending to be influenced and rewarded in connection with any business, transaction and series of transactions of the New York State Assembly, and Section 1343, that is, the defendant, did knowingly and willfully participate in scheme and artifice to defraud and deprive another of the intangible right of honest services, and did cause to be transmitted by means of wire communication in interstate commerce, writings, signals and pictures for the purpose of executing such scheme and artifice.

This criminal complaint is based on these facts:

X Continued on the attached sheet.

Please see attached affidavit

[Handwritten Signature]
Complainant's Signature

Daniel A. Ciavarri, S/A FBI
Printed name and title

Sworn to before me and signed in my presence.

Date: 10/10/18

[Handwritten Signature]
Judge's signature

City and State: Rochester, New York

Hon. Marian W. Payson, U.S. Magistrate Judge
Printed name and title

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

State of New York    )  
County of Monroe    ) ss:  
City of Rochester    )

I, Daniel A. Ciavarri, being duly sworn, depose and say:

**INTRODUCTION**

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) and have been so employed for over 7 years. I have been trained to investigate, and have participated in investigations of, a wide range of federal criminal violations, including fraud and public corruption. I am empowered by law to conduct investigations of, and make arrests for, offenses against the United States.

2. This affidavit is made in support of a criminal complaint charging JOSEPH A. ERRIGO with violating Title 18, United States Code, Sections 666 (bribery concerning programs receiving federal funds) and 1343 (honest services wire fraud).

3. The factual information supplied in this affidavit is based on my own investigation in this case, including witness interviews and reviews of records, my experience and background as an FBI Special Agent, and information provided by other law enforcement officers engaged in the investigation. Because I am submitting this affidavit for the limited purpose of securing a criminal complaint, I have not set forth each and every known fact known to me relating to this investigation. Rather, I have set forth only those facts that I believe are necessary to establish probable cause to believe that JOSEPH A. ERRIGO did knowingly violate Title 18, United States Code, Sections 666 and 1343.

## PROBABLE CAUSE

4. At all times relevant to this complaint, the defendant, JOSEPH A. ERRIGO, was an Assemblyman for New York State, representing the 133<sup>rd</sup> Assembly District, which is within the Western District of New York. As such, ERRIGO was an agent of a State government and agency thereof, as defined in Title 18, United States Code, Section 666. During any one-year period relevant to this complaint, New York State received in excess of \$10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance.

5. FBI received information from a confidential source, known to the FBI to be reliable, regarding an unusually close relationship between a member of the New York State Assembly other than ERRIGO ("Member A") and a lobbyist. FBI began an investigation into this relationship.

6. FBI later focused on a specific bribery scheme. The purpose of the proposed bribe was to induce Member A to introduce certain legislation. The legislation at issue involved reducing the extent of local control over a pending development project in the Rochester area by vesting an ability to review the development project with the New York State Department of Transportation. The scheme as initially conceived had several participants, including the person offering to pay the bribe (the "bribe payor"), a registered New York State lobbyist (the "lobbyist"), and Member A.

7. In or about September 4, 2017, the bribe payor met with the lobbyist in a public location to discuss paying Member A money in exchange for legislation meant to alter the proposed development project. The lobbyist confirmed that such an arrangement was possible. Later in the conversation, the lobbyist suggested utilizing a different Assemblyman,

specifically ERRIGO, to introduce the legislation so that the bill would not be traceable to Member A. Member A, though, would assist in getting the legislation through a specific committee, according to the lobbyist. The FBI was able surreptitiously to monitor this meeting.

8. In or about September 8, 2017, the bribe payor had another meeting with the lobbyist in a public location. The bribe payor notified the lobbyist that he would have cash in the next week or so to give to the lobbyist and Member A. The lobbyist confirmed he would accept this money and that he could get the bill introduced within a month. The FBI was able surreptitiously to monitor this meeting.

9. In or about September 26, 2017, the bribe payor met the lobbyist at a public location and handed the lobbyist two envelopes. The lobbyist stated he would use the money to "grease the skids with ERRIGO." The FBI was able surreptitiously to photograph and record this transaction. The FBI has determined that each envelope contained \$1,500 in cash, for a total payment of \$3,000.

10. From October to December 2017, the bribe payor and lobbyist exchanged numerous text messages about arranging a meeting with ERRIGO to pay ERRIGO to introduce the proposed legislation. FBI has obtained and reviewed copies of these messages.

11. Ultimately, the lobbyist was able to schedule a meeting with ERRIGO at his office in Pittsford, New York. The meeting occurred on or about February 9, 2018. At some point during the meeting, ERRIGO and the bribe payor were observed by FBI exiting ERRIGO's office together and walking to ERRIGO's car, where the bribe payor placed an envelope on the front passenger seat. The FBI was able surreptitiously to photograph this

event. Shortly thereafter, the lobbyist also arrived at ERRIGO's office. The FBI has determined that the envelope contained \$1,500 in cash.

12. Also on February 9, 2018, the bribe payor emailed the lobbyist specific language for the proposed legislation that ERRIGO was going to introduce. This email was determined by FBI to have been sent from the Western District of New York via a Gmail account. According to publicly available information from Google, the provider of Gmail (Google) does not have any data centers in New York State, and therefore this email traveled in interstate commerce.

13. On or about March 16, 2018, the bribe payor met with ERRIGO and provided him a further payment of \$2,000.

14. On or about March 27, 2018, ERRIGO introduced a bill consisting of the proposed legislation, which was assigned bill number A10227. Assignment of a bill number to proposed legislation is an initial step in the process of enacting a State law.

15. Also on or about March 27, 2018, the bribe payor met with the lobbyist at a public location and paid him for his help in getting the legislation introduced. The FBI was able surreptitiously to record and photograph this meeting. At a different point in time, the FBI determined that the payment consisted of \$2,000 in cash.

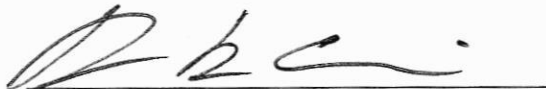
16. On April 13, 2018, the bribe payor met with ERRIGO at a public location and paid him \$2,000 in cash for obtaining a bill number for the proposed legislation. The FBI was able surreptitiously to monitor this meeting.

17. In May 2018, Special Agents with the FBI approached ERRIGO at his home and engaged him in a voluntary interview. ERRIGO admitted to the FBI that he had accepted money from the bribe payor, and acknowledged that it was a mistake to do so. ERRIGO

stated that he desired to cooperate with the FBI. In subsequent interviews, ERRIGO repeated initial admission that he took cash from the bribe payor.

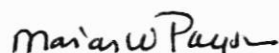
18. In summary, the bribe payor paid a total of at least \$10,500 to ERRIGO and the lobbyist to assign a bill number to a proposed bill, and thereby introduce legislation and begin the process of obtaining passage of a State law.

19. Based on the foregoing, I respectfully submit that there is probable cause to believe that JOSEPH A. ERRIGO did knowingly violate Title 18, United States Code, Section 666, that is, ERRIGO did accept and agree to accept cash in the amount of at least \$5,500 intending to be influenced and rewarded in connection with any business, transaction and series of transactions of the New York State Assembly, and Section 1343, that is ERRIGO, did knowingly and willfully participate in scheme and artifice to defraud and deprive another of the intangible right of honest services, and did cause to be transmitted by means of wire communication in interstate commerce, writings, signals and pictures for the purpose of executing such scheme and artifice.



Daniel A. Ciavarrri  
Special Agent  
Federal Bureau of Investigation

Subscribed to and sworn before me  
This 10<sup>th</sup> day of October 2018



HONORABLE MARIAN W. PAYSON  
U.S. MAGISTRATE JUDGE