

NEWS

## State Bar raps ex-DA LaHood for 'professional misconduct'

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Former Bexar County District Attorney Nico LaHood in court in 2018.

Photo: Bob Owen /San Antonio Express-News

Repudiating his repeated denials, the State Bar of Texas has ruled that former Bexar County District Attorney Nico LaHood committed professional misconduct during a

murder trial two years ago in which he allegedly threatened to ruin two defense attorneys who had angered him.

LaHood, who went into private practice as a defense lawyer in January after his term ended, has denied making the threat. He repeated that denial this week before a grievance committee of the state bar.

The committee nonetheless found that LaHood "has committed professional misconduct" and placed him on probation for one year, according to its five-page judgment. He was ordered to pay nearly \$10,000 in attorney's fees and expenses.

LaHood may continue to practice law during this period, but he must comply with terms of his probation, including refraining from further misconduct. If he violates the terms, LaHood could have his license suspended and be subject to other discipline.

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One of the attorneys LaHood allegedly threatened in 2017 was Joe Gonzales, who was inspired by the incident to challenge LaHood at the ballot box. Gonzales defeated him in last year's Democratic primary and won the November general election.

"I am satisfied with the outcome," Gonzales said Wednesday of the state bar's judgment. "This is affirmation that the process works, that the state bar can police its lawyers, especially those that are public officials and to whom the public trust is part of their responsibility."

He added, "I'm glad that it's over."

The acrimony stemmed from a murder trial in which LaHood and Gonzales were on opposing sides.

On Jan. 11, 2015, Laura Carter, 33, was shot five times in the head while sitting in a car on the Southeast Side. Two weeks later, Miguel Martinez was arrested and charged in the killing.

The circumstances that led to the confrontation between LaHood and Gonzales were never in dispute.

Shortly after Martinez's arrest, then-Assistant District Attorney Jason Goss gave another prosecutor a case file to read. The next day, the prosecutor told Goss she'd had a sexual encounter three years earlier with a crucial witness for the state.

Goss instructed the prosecutor to have nothing more to do with the case. He told no one else about the relationship for nearly two years.

In February 2017, LaHood announced he would prosecute the case himself due to "the sheer callousness and cold bloodedness of the defendant's actions."

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Before trial, Goss told LaHood about the prosecutor's sexual encounter with the witness. But the District Attorney's Office did not fully disclose the conflict to Gonzales or his co-counsel, Christian Henricksen, until after a jury was selected and the trial had begun.

The defense attorneys argued that LaHood by law should have disclosed the information sooner. On Feb. 9, 2017, a meeting was called in the chambers of Judge Lori Valenzuela to discuss the matter.

LaHood told everyone present that he would agree to a mistrial. Gonzales responded that the defense would need time to investigate whether the belated disclosure amounted to prosecutorial misconduct.

This enraged LaHood, who told Gonzales and Henricksen that he would "shut down" their practices and "make sure they never got hired on another case again in Bexar County," according to a court filing by the two defense lawyers.

Gonzales and Henricksen later argued that the case should be dismissed altogether. Retrying Martinez, they contended, would violate the defendant's constitutional protection against double jeopardy.

That and related issues were the subject of a hearing in April 2017 before Senior District Judge W.C. Kirkendall, who took over the case after Valenzuela recused herself.

At that hearing, Valenzuela testified that during the meeting in her chambers, she heard LaHood threaten the lawyers and that she considered it official oppression, a Class A misdemeanor.

Kirkendall ruled that LaHood had “engaged in an unprofessional and uncalled for ‘rant.’” The judge also denied the defense motion to dismiss the murder case.

The following month, San Antonio lawyer Mark Stevens filed a complaint against LaHood with the State Bar of Texas, citing the threat and other alleged misconduct by LaHood.

On Monday, at a closed hearing before the bar grievance committee in San Antonio, LaHood again denied making any threats, according to Stevens, who was present.

Stevens said that two former prosecutors who witnessed the confrontation — including Goss, who now works with LaHood in private practice — testified at the hearing that they did not remember LaHood threatening the defense attorneys.

After hearing further evidence and arguments, including testimony from Valenzuela and Gonzales, the committee found that LaHood “used means that had no substantial purpose other than to embarrass, delay, or burden a third person.”

The panel also found that LaHood “in the course of representing a client ... made an extrajudicial statement” that he should have known “will have a substantial likelihood of materially prejudicing an adjudicatory proceeding” — an apparent reference to public comments that LaHood made about Martinez in advance of the trial.

The judgment did not describe in detail the conduct or statements for which LaHood was being sanctioned.

Neither LaHood nor his attorney, Wade Shelton, returned messages on Wednesday seeking comment.

In an interview with KENS 5, LaHood stressed that the state bar did not explicitly say he had made threats.

The state bar's sanction is not the first time LaHood was handed probation.

In 1994, LaHood was arrested for selling 200 Ecstasy pills to an undercover agent at a strip club while in possession of a firearm. He was sentenced to 18 months of deferred adjudication, a form of probation.

LaHood framed his past as a narrative of redemption in two consecutive campaigns against former Bexar County D.A. Susan Reed. He defeated her in 2014, a victory aided by more than \$1.2 million in contributions from personal-injury attorney Thomas J. Henry.

Even before his confrontation with Gonzales, LaHood courted controversy as D.A.

In 2016, he appeared in a controversial documentary linking childhood vaccines to autism.

Sitting at his desk in his county office, he was videotaped saying, "I'm Nico LaHood. I'm the criminal district attorney in San Antonio, Texas. I'm here to tell you that vaccines can and do cause autism."

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