

The Bulletin

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Castor: I Was Not Consulted About The Barnes Case

by Jeff Cobb

Montgomery County Commissioner Bruce Castor (R) says he was not consulted about the county's decision not to appeal a court ruling regarding the Barnes Foundation.

Last week, The Bulletin reported the commissioners would not appeal a May 15 ruling by Montgomery County Orphans Court rejecting their request to reopen a case from 2004 that had granted the Barnes permission to move. Judge Stanley Ott ruled that neither the county, nor co-petitioner the Friends of the Barnes Foundation, a citizens group, had legal standing.

The county had 30 days to appeal, and Wednesday its decision had been relayed by County Solicitor Carolyn Carluccio. She told The Bulletin that she had been clearly informed by commissioner chairman James R. Matthews (R), who in turn spoke for the commissioners.

According to Mr. Matthews yesterday, however, it was simply a mistake.

"I think she made an assumption," Mr. Matthews said. "I don't normally speak without having a majority opinion behind me."

Ms. Carluccio could not be reached for comment.

Yesterday, Mr. Matthews said he still doubts the county will appeal. He said taxpayers might have to pay for sanctions if the judge takes issue with a request for reconsideration without the county doing more to establish standing.

Ms. Carluccio said last week she felt strongly that the county should have been granted standing, but the commissioners had made their decision.

But this was news to Commissioners Castor and Joe Hoeffel (D).

"I was stunned to read in Thursday's Bulletin that the deputy county solicitor was directed to cease efforts to keep the Barnes in the county by Chairman Matthews. He never discussed it with me," Mr. Castor said in a press release.

Continuing, he said, "My phone has been ringing off the hook from upset residents of Lower Merion who are outraged over this apparent about face. I am equally distressed that this decision is being represented as though the commissioners discussed it. We most certainly did not, despite having an extended meeting together on Wednesday. Commissioner Matthews never raised this issue at any meeting in which I was present."

Yesterday, Mr. Castor went on to say Mr. Matthews spoke on the Barnes topic for him and Mr. Hoeffel presumptuously.

"He doesn't have the authority to do so, but he thinks he does," Mr. Castor said. "We are supposed to make important governmental decisions in a public meeting. ... I don't know what Commissioner Matthews' rationale for not going forward was."

Likewise, Mr. Hoeffel said his reading about Mr. Matthews' statement came as news. While saying he does not think the county's chances are good, he said the issue needed to be properly discussed.

"The three of us have not talked about it and made an official position," Mr. Hoeffel said, "I got an e-mail from Bruce [Castor] today saying that he thinks this is something we should appeal."

"I'm flat out opposed to dropping the legal appeals if there are any remedies available to us," Mr. Castor said. "Based on what I know I think that there are."

Mr. Castor said he was guided by desire to abide by his constituents' will, and out of concern for legal precedents that could deter others from future donations or establishment of trusts.

Mr. Castor said Dr. Albert C. Barnes had entrusted his collection very specifically to reside forever in Montgomery County. His concern was for a potential chilling effect the confidence by potential donors based on how this case plays out.

Mr. Matthews said however unless some new arguments can be presented establishing standing, his vote is to quit while they are ahead.

He said he had been the first of the three to pioneer and champion the Barnes case, and keeping with tradition, "Pioneers get the first arrow."

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