

Jeffrey R. Ragsdale, Counsel
Office of Professional Responsibility
United States Department of Justice
950 Pennsylvania Avenue, NW, Suite 3266
Washington, DC 20530-0001

February 8, 2025

Re: Acting U.S. Attorney Edward R. Martin's Possible Conflicts of Interest

Dear Mr. Ragsdale:

We write to request an investigation of whether Acting United States Attorney for the District of Columbia Edward R. Martin, Jr. has violated the rules of professional conduct for attorneys, the rules and protocols of the Department of Justice, and the "Impartiality Rule" at 5 C.F.R. 2635.502 binding on all federal employees.¹

The issue at hand is whether a prosecutor who recently entered the government can represent the government in the same criminal cases in which that same prosecutor previously represented the defendant. The only reasonable answer to this question, under the above-mentioned rules of ethics, and common sense, is that he cannot.

As former White House ethics officials and as a professor of legal ethics, we were stunned to hear that acting United States Attorney Martin has sought dismissal in at least one case in which his own private sector client *had already been convicted* of serious felonies committed during the January 6, 2021 attack on the U.S. Capitol.² More than 140 police officers were assaulted during the siege.³

His client Joseph Padilla had already been sentenced after being found guilty on eight felony counts and two misdemeanors, including assaulting a police officer with a deadly or dangerous weapon.⁴ It appears that these convictions are within the scope of the pardon issued to January 6 defendants by President Trump.

¹ This letter adds additional detail to our previous February 6, 2025 letter concerning the professional conduct of Mr. Martin and should be substituted for that earlier submission.

² Brad Heath, Sarah N. Lynch and Andrew Goudsward, *Top Trump prosecutor in DC dropped federal cases against Capitol rioter he represented*, Reuters (Feb. 5, 2025), <https://www.reuters.com/world/us/top-trump-prosecutor-dc-who-was-present-capitol-riot-dropped-us-case-against-2025-02-05/>.

³ U.S. Attorney's Office, District of Columbia, 46 Months Since the Jan. 6 Attack on U.S. Capitol (Nov. 18, 2024), <https://www.justice.gov/usao-dc/46-months-jan-6-attack-us-capitol>.

⁴ U.S. Attorney's Office, District of Columbia, Tennessee Man Sentenced to Prison on Eight Felony Charges for Actions During Jan. 6 Capitol Breach (Sep. 13, 2023) <https://www.justice.gov/usao-dc/pr/tennessee-man-sentenced-prison-eight-felony-charges-actions-during-jan-6-capitol-breach>.

Amended Complaint

Shortly after taking office, on January 21, 2025, Mr. Martin submitted the motion seeking dismissal of Mr. Padilla’s indictment,⁵ which was granted by the Court later that same day.⁶ The motion to dismiss was submitted with his signature block, his D.C. bar number, and reads “respectfully submitted, Edward R. Martin, United States Attorney”, followed by an “/s/” in the signature line for an assistant United States Attorney in Mr. Martin’s office.

A United States Attorney is not exempt from the relevant provisions of the Standards of Ethical Conduct for Employees of the Executive Branch and is obligated to follow established ethics protocols addressing the appearance of loss of impartiality.⁷ The “impartiality rule” in 5 CFR 2635.502 requires a federal officer to recuse from any matter in which his own client or former client is a party, and this rule applies with even more force when it is the exact same matter in which the federal officer previously represented the client. We do not allow people to enter the government, switch sides, and help their former clients prevail in party matters before the government. And that includes lawyers.

There is some discretion as to whether to recuse from specific party matters that give rise to the appearance of a loss of impartiality—but only if the employee does not believe it would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter. There is no way that a reasonable person could believe a federal official, a lawyer no less, to be impartial in representing the government adverse to his former client in the exact same matter in which he represented the client. Recusal is required.

A good argument can be made that under this impartiality rule a federal prosecutor who was previously involved as a defense attorney in any of the January 6 riot cases should recuse from *all* of these cases in the Justice Department, not just cases against his own clients. But refusal to recuse from his own client’s case is inexcusable.

Mr. Martin’s actions also appear to violate the ethical norms of the legal profession. ABA Model Rule 1.11(d) provides that a government lawyer shall not participate in a particular party matter such as a criminal case if the lawyer personally and substantially participated in the same matter in private practice or nongovernmental employment.⁸ Rule 1.11 would allow his participation only if the appropriate government agency gives informed consent.

We understand that it may be possible that Mr. Martin may have abided by all applicable ethics rules, but based on the public record it is not at all evident thus far. If the Acting Attorney General at the time gave consent to Martin representing the United States in cases involving his own clients—the same clients he represented in the same cases against the United States—the

⁵ Pl.’s Mot. Dismiss, *United States v. Padilla*, No. 21-CR-214 (D.D.C. Jan. 21, 2025), <https://www.courtlistener.com/docket/59736257/124/united-states-v-padilla/>.

⁶ *United States v. Padilla*, No. 21-CR-214 (D.D.C. Jan. 21, 2025), <https://www.courtlistener.com/docket/59736257/125/united-states-v-padilla/>.

⁷ See Office of Government Ethics, Standards of Ethical Conduct, [https://www.oge.gov/web/oge.nsf/0/86D5B4F72AF0FBCB852585B6005A1A22/\\$FILE/Standards%20of%20Ethical%20Conduct%20508.pdf](https://www.oge.gov/web/oge.nsf/0/86D5B4F72AF0FBCB852585B6005A1A22/$FILE/Standards%20of%20Ethical%20Conduct%20508.pdf).

⁸ Model Rules of Prof’l Conduct r. 1.11 (Am. Bar Ass’n), https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_11_special_conflicts_of_interest_for_former_current_government_officers_employees/.

Justice Department should disclose the details of that consent. We know of no such valid consent and assume there was none because it is difficult to imagine circumstances in which an Acting Attorney General acting reasonably could give it.

We request that this matter be investigated promptly, and that the Justice Department direct immediate remedial action. For any communications regarding this complaint, please contact [REDACTED] or [REDACTED].

Sincerely,

/s/

Richard W. Painter
Former Associate Counsel to President George W. Bush

/s/

Norman Eisen
Former Special Counsel to President Barack Obama

/s/

Virginia Canter
Former Associate Counsel to President Barack Obama and President Bill Clinton

/s/

Cassandra Burke Robertson
John Deaver Drinko—BakerHostetler Professor of Law
Director, Center for Professional Ethics
Case Western Reserve University School of Law