

On Mon, May 6, 2024 at 4:49 PM Veronica Isherwood <isherwoodlawoffice@gmail.com> wrote:

Good Afternoon Adam,

It was great talking to you after all these years! I'm happy to hear you are doing so well. Unfortunately, we talked because of what is happening to Justin Malueg.

As you may know, I started as a prosecutor when I was an intern in the Portage County DA's office in 1998. I was an assistant District Attorney in Portage County from 2001 - 2014. I then moved to Waupaca County where I was an assistant through 2016 when I was elected as District Attorney and took office in January, 2017. I retired February 1, 2024. My last year I stepped down from the DA position and worked as an assistant due to the crazy WI situation where experienced ADA's make significantly more money than DA's!

As of March 1st I am the Municipal Prosecutor for the Cities of Waupaca and Weyauwega. Justin's situation came to my attention when DA Kat Turner sent me a text on 2/15/24 that simply read: "I had to Brady Malueg". Because Justin was certified in DRE, he often assisted other agencies when he was on duty, including the Cities of Waupaca and Weyauwega. I knew I would need to make my own determination regarding if I felt any actions of Justin rose to the level that I would need to make notification pursuant to the Brady line of cases.

A copy of the letter that Kat sent is attached for your information. The letter indicates that the record of his alleged dishonest behavior is contained in his personnel record. I have in my hand, a copy of his entire personnel file. I have reviewed every document in that file and there is NOTHING that indicates that Deputy Malueg engaged in any behavior that could be considered dishonest. It does however contain very complimentary employment evaluations. He had 3 disciplinary actions noted.

1. On 5/27/2023 he was involved in an accident with his squad. That happens. There is no indication that he made any dishonest or misleading statements in that investigation.
2. On 11/8/2021 he had a disciplinary report because he had contact with an individual the Sheriff had told him not to have contact with while on-duty. (She dropped off lunch at his squad) Justin took full responsibility for his actions and accepted the discipline. I found no indication that he was dishonest or misleading in the investigation.
3. On 8/30/21 he received a written warning because he was at a residence of an individual after he had been told by a Sergeant that he should not be with this person while on duty. This person had been a victim in the past and there was a concern regarding conflicts. Again, there was no indication that Justin was dishonest or misleading at any point in the investigation.

When I discussed the lack of evidence with DA Turner, she told a tale of repeated dishonesty that she indicated she saw documented in Justin's personnel file. I repeat - nothing she explained is in his personnel file. When I challenged her, she indicated the 2 occasions outlined above (#2 & #3) where he did not follow an order represent Brady violations. (She embellished the disciplinary report to include that Justin lied about his behavior. This is not true per his personnel file.)

I vehemently disagree with this conclusion. If prosecutors were concerned every time an officer received a disciplinary action, we would have no officers. There is simply no evidence that Justin Malueg was dishonest or lied, even by omission, in any investigation found in his personnel file.

When I corresponded with DA Turner after reviewing the file, she ultimately said that "he lied about calling Captain Kevin Studzinski during an investigation. This is a Brady violation." I personally called Captain Studzinski and he told me he had nothing to do with any investigation involving Justin Malueg, that Justin had never called him as alleged by DA Turner, and DA Turner had never called Captain Studzinski to verify the alleged phone call.

Finally, the conversation where SO Admin allege Justin was untruthful was recorded. Neither the Sheriff nor the Waupaca County Human Resources Department will share that recording because they claim it is not an open record. there was no investigation done and Justin has resigned. This recording could disprove any supposed violation, there was never an investigation done of any alleged violations, there are no reports in existence that document any violation.

I understand that DA Turner gave a glowing recommendation when your agency was looking to hire him. It is very concerning that she would encourage your agency to hire him while staying silent on the Brady issue. I think this behavior supports my belief that she does not understand what constitutes a violation reportable under Brady and the proof that is needed. I have also seen the email where she told Justin that he was not on a Brady List as Waupaca County has no such list. I asked him to provide me with a copy of that email:

On Mar 5, 2024, at 3:41 PM, Turner, Kat <Kat.Turner@da.wi.gov> wrote:

Justin –

There is no “Brady List.”

Any time that any LEO is determined to have acted in any way untruthfully – whether it be in official duties or otherwise – the prosecutor who is made aware of this is ethically obligated to notify defense counsels of that information. In your case there was an internal investigation based upon allegations of untruthfulness and defense counsels had to be made aware of that. After consultation with ethics representatives that notice was sent.

I have not received any requests for references, but I'll keep an eye out for them.

Best of luck!

-KRT

In my years as a prosecutor I had the misfortune to label three officers as having a behavior that I had to share pursuant to my responsibilities under Brady. I did not take that extreme measure until a full investigation was done which included the named officers having an opportunity to give their side of the story and to be represented by counsel. I believe that is the responsible way to proceed when drastic action which can conceivably end an officer's career is taken.

I will not be reporting any dishonest actions by Justin Malueg. There is simply no proof and potentially exculpatory evidence is being withheld. I fear Justin will have to take legal action to clear his name which is unfortunate as he has young children to support. I have never heard of anyone issuing a complaint under Brady with no proof and just proceeding at the request of a Sheriff.

I know this is a long email - but this was a complicated issue. Bottom line - in my opinion there was no violation reportable under Brady. I've worked with Justin for years and have found him to be a compassionate and skilled officer. Furthermore, I am aware that Justin spoke to people about his intention to run for Sheriff. This could have played a role in this whole situation.

If you have any questions, be sure to let me know.

Veronica (Roni) Isherwood
Happily Retired District Attorney