

January 25, 2023

Andrew H. Warren  
c/o David A. O'Neil, Esq.  
801 Pennsylvania Ave. N.W.  
Washington, DC 20004

Hon. Ron DeSantis, Governor of the State of Florida  
c/o Ryan Newman, General Counsel to the Governor  
400 South Monroe St.  
Tallahassee, Florida 32399

*Via Electronic Delivery*

RE: Executive Order #22-176

Governor DeSantis:

As Florida's governor, you are required to faithfully execute the laws of the state. On August 4, 2022, you suspended me from my position as Hillsborough County's twice-elected state attorney on the premise of alleged neglect of duty and incompetence. After a full and fair trial concerning my suspension, with unlimited time and the full array of federal discovery available to your office to demonstrate otherwise, a United States District Court has emphatically stated that I had executed my duties under the law without a hint of misconduct and that my suspension violates the United States and Florida Constitutions. Accordingly, pursuant to your oath of office to uphold both constitutions and your solemn duty to execute Florida law faithfully—including your power to suspend elected officials—I respectfully request that you voluntarily reinstate me as Hillsborough County's duly elected state attorney for the remainder of my four-year term without further delay.

Faithful execution of the law depends on faithful recognition of the facts. And a nonpartisan finder of fact has found the allegations within Executive Order #22-176 to be inaccurate.

Factually, the Court has confirmed that the allegation that "Mr. Warren had blanket policies not to prosecute certain kinds of cases ... was false." (Order on the Merits, Jan. 20, 2023, p.1) The Court further found that my office "had no blanket nonprosecution policies" and that "[a]ny minimally competent inquiry would have confirmed this." (Order at p.15)

Factually, the Court has confirmed that discretion was a bedrock of my office's approach to the prosecutorial function, with each and every case being evaluated on its individual merit. To quote the Court: "Mr. Warren's well-established policy, followed in every case by every prosecutor in the office, was to exercise prosecutorial discretion at every stage of every case. Any reasonable investigation would have confirmed this." (Order at p.1) The Court further stated that your office "has been unable to identify even a single case in which discretion was not exercised." (Order at p.53)

Factually, the Court has confirmed that I never committed to not prosecute abortion cases, or any other cases of any kind. As the Court concluded:

Just four days [after the Supreme Court's *Dobbs* decision], Mr. Warren made clear in an interview on local television station FOX-13 that he would exercise discretion whether to prosecute any abortion case that came to the office—none ever had—just as the office exercised discretion in every other case of every other kind. (Order at p.19)

Factually, the Court has confirmed that I did not neglect my duty or was incompetent as state attorney. As the Court concluded:

The record includes not a hint of misconduct by Mr. Warren. So far as this record reflects, he was diligently and competently performing the job he was elected to perform, very much in the way he told voters he would perform it. He had no blanket nonprosecution policies. Any minimally competent inquiry would have confirmed this. The assertion that Mr. Warren neglected his duty or was incompetent is incorrect. This factual issue is not close. (Order at p.15)

In August of 2022, when you ordered my suspension, you and others in your office may not have known all the facts about how my office functioned. But now, in January of 2023, you know the facts. Exhaustive discovery, taken under oath and under penalty of perjury, was undertaken. A federal trial under the same oath and penalty was conducted. The facts are now known, and the Court's findings are clear: I engaged in zero misconduct; the allegations in the Executive Order are false; and the suspension violates federal and state law.

As Justice Clarence Thomas has observed, faithfully executing the law “[s]peaks of duty, not power.” It means executing the law with “[f]idelity to the law itself, not to [. . .] policy preference.”

Duty requires you to accept the Court's findings that the Executive Order is illegal, even if that finding is perhaps unwelcome.

It is true that we are members of different political parties with different opinions on policy. But we have each sworn identical oaths as elected officials in service of the State of Florida and as members of the Florida Bar. Our oaths mandate that we maintain the respect due to courts of justice, and support the constitutions of both the State of Florida and the United States of America. After a full and fair trial, a court of law has determined that Executive Order #22-176 violates these very laws we both have sworn to uphold. In deference to federalism, the Court declined to compel that order to be involuntarily rescinded. But the Court has invited you to voluntarily rescind the order. As the Court wrote, if your motivation in suspending me was as you claimed—based on the belief that I had blanket nonprosecution policies that has now been proven false—then you “can easily set it right.” (*Id.*) The Court recognized that you will do just that “[i]f the facts matter” (Order at p.53)

And the facts do matter. Faithful execution of the law depends on faithful recognition of the facts. Accordingly, I ask that you lead through deeds, not words, and voluntarily rescind Executive Order #22-176. Further delay would be unnecessary and wasteful; it would deprive the

residents of Hillsborough County their duly elected state attorney, cost taxpayer resources, clog our overburdened courts, and jeopardize every prosecution in the Thirteenth Judicial Circuit handled by an interim state attorney who lacks valid authority because she was appointed as part of my illegal suspension. I ask that you resolve this matter by restoring me to the office the voters of Hillsborough County have twice-elected me to hold for the remainder of my four-year term.

Though we may continue to disagree on matters of policy, let us show the nation, together, that you will honor your oath of office and that you believe what you said on the day you announced my suspension: that the State of Florida continues to be a government of laws, not a government of men.

Respectfully,

A handwritten signature in blue ink, appearing to read "Andrew H. Warren".

Andrew H. Warren

State Attorney, Thirteenth Judicial Circuit

Enclosure:

- Order on the Merits, *Andrew H. Warren v. Ron DeSantis*, Case No. 4:22cv302-RH-MAF (Jan. 20, 2023)