

Macomb prosecutor indicted in probe of 2002 congressional bid

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Body

A federal grand jury has indicted Macomb County Prosecutor Carl Marlinga on charges that he intervened in criminal cases in exchange for contributions to his failed 2002 campaign for Congress.

Also charged in the case Thursday were former U.S. Rep. Sen. Jim Barcia, now a state senator, and Warren real estate agent Ralph Roberts.

Barcia was charged with lying to federal agencies and exceeding campaign contribution limits. Roberts was charged in three counts.

Marlinga, chief law enforcer for Michigan's third-largest county since 1985, said he was surprised. He had agreed to testify before the grand jury and passed on invoking his Fifth Amendment right to not incriminate himself.

Marlinga said he had nothing to hide.

"It's a shocker. It's disheartening and I'm still numb," the 57-year-old Democrat told The Associated Press in a phone interview Thursday. "I'm an innocent man. I did nothing wrong and I still can't believe this is happening."

Barcia attorney Harold Gurewitz said the Bay City Democrat was innocent. Roberts also proclaimed his innocence.

"The indictment is merely a formal accusation," the real estate agent said in a statement, reported in The Macomb Daily of Mount Clemens, the Detroit Free Press and The Detroit News. "Nothing has changed from my perspective. I did nothing wrong."

The nine-count indictment says Marlinga and others used his office to commit conspiracy, fraud, campaign violations and mail and wire fraud.

The federal investigation into Marlinga was triggered by complaints from Republicans who claimed Marlinga intervened in an appeal filed by convicted rapist Jeffrey Moldowan in exchange for contributions. The indictment lists \$34,000 in contributions to his campaign.

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Marlinga later returned some of the money. He has repeatedly denied intervening in the appeal. Moldowan eventually was granted a new trial and acquitted.

Earlier this week, Marlinga said he withdrew his bid to run for re-election. He said he made the decision in part because of the effect that the federal probe could have on a run for another term. Marlinga said Thursday he had no plans to resign but would step back from critical decision-making.

The three mail and wire fraud charges have a maximum penalty of 20 years, five other charges carry a five-year maximum and one charge carries a one-year sentence. Although under federal sentencing guidelines, none of the defendants would receive the maximum penalty because they have no prior convictions, an assistant U.S. attorney said.

Marlinga said he expects to be arraigned next week.

The indictment includes transcripts of taped telephone conversations and excerpts of letters that the government points to as evidence that Marlinga took campaign contributions from Roberts in return for reopening Moldowan's case. Roberts employs Moldowan's sister and had been outspoken about his innocence.

In a letter written Dec. 21, 2001, Roberts wrote: "Thanks for what you've done with the Jeffrey Moldowan case ... I really appreciate that."

In another letter the same day, Roberts wrote: "I'm sending you my \$2,000 check as we talked about ... Thanks for all the different things you've helped me with over the years. Hopefully we can continue to help each other and also the people of Macomb County."

"I did nothing wrong," Roberts said in his statement. "I did what any caring citizen of this country could have done. ... Two innocent men were in jail for a long time. Unfortunately, other innocent men and their families are going to be affected by the government's decision to indict."

In Jan. 2002, Marlinga sent a brief to the Michigan Supreme Court where Moldowan had appealed his case, saying that there had been flaws in the original trial. According to the indictment, Marlinga used language in the brief that virtually guaranteed a new trial by going beyond what another attorney in his office had reviewed in an earlier draft.

Following the Supreme Court's decision to grant a new trial, the indictment says, Roberts called Marlinga and said: "the first order your guys wanted to send up (to the Supreme Court), without your changes, it wouldn't have happened."

The indictment says Barcia was a conduit used to avoid campaign contribution caps. It says Marlinga told lawyers for criminal defendant and real estate agent James Hulet - who had already contributed the maximum amount - that if they donated to Barcia's state Senate campaign that Barcia would send unused federal campaign dollars from Barcia's time in the U.S. House to Marlinga's campaign. The indictment said \$4,000 was exchanged using this method.

Hulet was charged with first-degree criminal sexual conduct and several other charges. After pleading to lesser charges, he was sentenced in January to two years in prison.

Barcia, 52, was elected to the state Senate in 2002 after serving 10 years in the U.S. House. He said he left the House to avoid a primary race with his friend and fellow U.S. Rep. Dale Kildee, D-Flint.

The two lawmakers' districts were combined in the reapportionment map drawn by the Republican-controlled Legislature after the 2000 Census.

Barcia served six years in the state House and 10 in the Senate before being elected to Congress.

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Marlinga raised nearly \$1 million in his congressional campaign and was defeated by former Republican Secretary of State Candice Miller, who won 63 percent of the vote.

Graphic

Eds: PMs. ADDS more comment from Roberts, more AP Photo numbers.; AP Photos NY124, WXS114, DT105, MIBAY101 of April 22, MIDTF201 of

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