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Newsroom

PolitiFact Blog Cites Zlotnick on AG Campaign Claims

The Providence Journal's PolitiFact Blog cites Professor David Zlotnick in a discussion of misleading campaign claims in the Rhode Island AG race.

*The Providence Journal's PolitiFact Blog cites **Professor David Zlotnick** in a discussion of misleading campaign claims in the Rhode Island AG race, "[Pants on Fire! Kilmartin says Fernandez didn't prosecute mayor's brother for writing bad checks to Providence.](#)"*

Sept. 10, 2010: Democratic Attorney General candidate Peter Kilmartin came out swinging against primary opponent Joseph Fernandez last week, accusing the former Providence city solicitor of not having the courage to prosecute John Cicilline, Mayor David Cicilline's brother, after John wrote two bad checks to the city. [But] the Kilmartin ad leaves out a lot of important information. [...]

State law prohibits any city or town solicitor from prosecuting a felony. That authority rests with the attorney general, who declined to take action after an independent investigation by state police.

[The Kilmartin campaign] argued that Fernandez should have repackaged the case as a misdemeanor charge or filed a civil suit against Cicilline to get the money. (That wouldn't actually be a prosecution. Only crimes are prosecuted; civil cases are litigated.)

The Fernandez campaign said that, by that time, the city solicitor's office had a conflict of interest because Ceperano (the fired tax collector who had been represented by Fernandez's office) had sued the city for wrongful discharge. To avoid the conflict, Fernandez hired Deming E. Sherman, of Edwards Angell Palmer & Dodge, to pursue a civil lawsuit to recover the unpaid taxes.

David M. Zlotnick, professor of law at Roger Williams University School of Law, said Fernandez's sending the case to a private lawyer seems more than reasonable. "If you refer the case to outside counsel, then the suit is going to get pursued." In a later e-mail he said, "There seems to be no effort to sweep this under the rug or avoid tackling a serious matter."

... And, for the record, the Kilmartin ad says, in big letters, "Joe Fernandez failed to prosecute corruption - Providence Journal 4/1/09." The Journal's story that day, headlined "Deadline near for suit in Providence tax case," says no such thing.

To sum it up:

- * Kilmartin's ad cites a dollar amount that is misleading.
- * He attacks Fernandez for not bringing criminal charges, when Fernandez, by law, had no authority to do so.
- * He faults him for not bringing a civil case, when Fernandez, for ethics reasons, turned the case over to a private lawyer to pursue potential civil action.

His allegations against Fernandez fall into the realm of ridiculous, and we give him a Pants On Fire!

To read full story, click [here](http://www.politifact.com/rhode-island/statements/2010/sep/10/peter-kilmartin/kilmartin-says-fernandez-didnt-prosecute-mayors-br/). [http://www.politifact.com/rhode-island/statements/2010/sep/10/peter-kilmartin/kilmartin-says-fernandez-didnt-prosecute-mayors-br/]