

Adult Complaint and Warrant  
In the  
In and for the  
State of Delaware

State of Delaware vs. **THEOPALIS K. GREGORY Sr**

I, CIV ZIEMBA (00000) of DEPT. OF JUSTICE N/C , do hereby state under oath or affirmation, to the best of my knowledge, information and belief that the above-named accused violated the laws of the State of Delaware by committing criminal acts in **New Castle** county on or about the date, or dates, and at or about the location, or locations, as indicated in Exhibit A hereto attached and made a part hereof.

Wherefore, your affiant prays that the above-named accused may be forthwith approached and held to answer this complaint consisting of **2** charges, and to be further dealt with as the law directs.

X \_\_\_\_\_

Affiant

Sworn to and subscribed to before me this \_\_\_\_\_ day of \_\_\_\_\_ AD, \_\_\_\_\_.

\_\_\_\_\_  
Judge/Commissioner/Court Official

(To be completed by the Judge/Commissioner/Court Official)

- A. \_\_\_\_\_ The crime was committed by a child.  
B. \_\_\_\_\_ A misdemeanor was committed against a child.  
C. \_\_\_\_\_ A misdemeanor was committed by one family member against another family member.  
D. \_\_\_\_\_ Other: Explain: \_\_\_\_\_

Warrant

To any constable or other authorized person:

Whereas, the foregoing complaint consisting of **2** charges, having been made, as listed in Exhibit A which is attached hereto and incorporated herein, and having determined that said complaint has been properly sworn to and having found that there exists probable cause for the issuance of process, based upon the affidavit of probable cause which is attached hereto and incorporated herein as Exhibit B, you are hereby commanded in the name of the State of Delaware, to take **THEOPALIS K. GREGORY Sr** accused, and bring same before

, **FORTHWITH**, to answer said charges

GIVEN UNDER MY HAND, this \_\_\_\_\_ day of \_\_\_\_\_ AD, \_\_\_\_\_

\_\_\_\_\_  
Judge/Commissioner/Court Official

Executed on by

Case Number: **19-09-016894** Warrant Number: **17-19-000146**

**Exhibit A**

Charge Sequence: **1**                      Police Complaint Number: **17-18-001048**                      Arrest Number:  
Charge: Profiteering; Acquire Interest in Property Transaction Enterprise Affected In Violation of 11 Del.C. § 1212 0001 M  
A  
Location: 800 N N. French ST - Wilmington, 19801

TO WIT: THEOPALIS K GREGORY S, on or about the 13th day of October, 2016, in the County of New Castle, State of Delaware, being a public servant, did in contemplation of official action by a governmental agency with which he has access in his official capacity acquire a pecuniary interest in any enterprise which may be affected by the official action, to wit: Theopalis Gregory Sr. did acquire a pecuniary interest in Student Disabilities Advocate, in contemplation of the awarding of a \$40,000 grant by Wilmington City Council President Shabazz, a governmental agency with which he is associated.

Charge Sequence: **2**                      Police Complaint Number: **17-18-001048**                      Arrest Number:  
Charge: Official Misconduct-Refrains from Performing a Duty In Violation of 11 Del.C. § 1211 0002 M A  
Location: 800 N N. French ST - Wilmington, 19801

TO WIT: THEOPALIS K GREGORY S, on or between the 13th day of October, 2016, and January 3, 2017, in the County of New Castle, State of Delaware, did as a public servant intending to obtain a personal benefit , knowingly refrain from performing a duty which was imposed upon him by law or is clearly inherent in the nature of the office. to wit; Theopalis Gregory Sr. refrained from performing his ethical duties under the Wilmington City Code with the intention of obtaining a personal benefit.

COPY

**Exhibit B**SBI Number: **00249518**Date of Birth/Age: **Jul 03, 1952 (67)**Sex: **Male**Race: **Black/African American**Height: **5' 10"** Weight: **240lbs**

Driver's License:

Address: **215 schafer BLVD****New Castle DE 19720**Date of Times of Offense: **Between 10/13/2016 at 08:00 and 01/03/2017 at 08:00**Location of Offense: **800 N N. French ST - Wilmington, 19801**

1. Your affiant, John Ziemba, is a Special Investigator with the Delaware Department of Justice, and assigned to the Office of Civil Rights and Public Trust. I have been employed by the Delaware Department of Justice for approximately 11 months. Prior to the Department of Justice, your affiant was a sworn Police Officer with the New Castle County Police Department for 20 years. During that time, your affiant was assigned to the Criminal Investigation Unit for approximately 10 years.
2. You affiant learned that Theopalis K. Gregory Sr. (7/3/52), while still the City Council President for the City of Wilmington did engage in activities meant to enrich both himself and a private entity- to take effect after his term expired on January 3, 2017. It is believed that Theopalis K. Gregory Sr. intended to use a non-profit he founded, Students Disabilities Advocate, Inc (SDA) to obtain grant money from the City and pay himself for services rendered as an attorney from the same grant.
3. On October 13, 2016, while still in office, Gregory signed and submitted a Certificate for Revival of Charter for SDA. Gregory had founded SDA as a Delaware Corporation on January 20, 1996. SDA's charter became inoperative on February 28, 1998 when it failed to file an annual franchise tax report. He identified himself in this Revival document as President of SDA. He is named in the Certificate of Incorporation as SDA's registered agent and his law office address is provided as SDA's registered office.
4. Nearly a month later, on November 10, 2016, Gregory's Chief of Staff Marchelle Basnight, emailed Hanifa Shabazz, the incoming Wilmington City Council President, indicating that only \$43,000 remained of the \$250,000 discretionary President Grant Funding for fiscal year 2017. Gregory responded to both Basnight and Shabazz stating that 40,000 of the remaining 250,000 is earmarked for SDA. After that email, Shabazz claims that Gregory pressured her on multiple occasions, while still in office, about granting the request when she came into office. Basnight emailed both Gregory and Shabazz on December 29, 2016 with a draft grant application and a detailed list of steps SDA needed to take to receive grant funding.
5. Because SDA lacked Non-profit 501(c)(3) status at the time, Mr. Gregory coordinated with Wilbert Miller, the executive director of the Police Athletic League of Wilmington (PAL-W) to act as a pass-through for the funds. On January 4, 2017, one day after Mr. Gregory left office, PAL-W submitted a grant application requesting \$40,000 for SDA as a pilot program. On January 12, 2017 this grant was approved by Shabazz and signed on January 17, 2017. The grant was split into two payments of \$20,000 and included in its budget a \$20,000 payment to SDA's Program Manager/Advocate, who was Gregory. Gregory has publically acknowledged receiving at least \$15,000 personally from this grant.
6. Your affiant knows that the State Auditor conducted an investigation and released a report primarily focused on City Council's policies and whether they were scrupulously followed. This report notes a number of failures in regards to conflict of interest and post-employment restrictions.
7. The State Auditor report finds that Pursuant to Section 2-230 of the Wilmington City Code, Gregory committed a number of ethical violations pursuant to subsection (a), (b) and (d). Section (a) restricts any city official from participation in a personal or private interest in any matters pending before the city in which that person has a personal or private interest. Section (b) restricts city officials from representing another's interest in any matters before the city. Section (d) restricts city officials, post-employment, from assisting any private enterprise on any matter involving the city for a period of two years.
8. An independent investigation conducted by Ballard Spahr, LLC found a number of different violations by Gregory for the same behavior. The report found that Gregory committed two specific violations, pursuant to Wilmington City Code, Section 2-340(f) regarding abuse of office, and section 2-341(e) which prohibits city officials from using public office for private gain.
9. In regards to Wilmington City Code, Section 2-340(f) they found that Gregory, while still City Council President, questioned, pushed and pressured Shabazz about the status of the grant. It also found that as a result of this, he personally obtained at least \$15,000 from the \$40,000 grant.
10. Under Wilmington City Code, Section 2-341(e) the investigation found that Gregory was aware he could not

approve the grant for himself while City Council President, and again questioned, pushed and pressured Shabazz into granting the proposal when she came into the office. The report concludes that he used the influence of his public office to secure private gain post-employment.

11. Current City Council President Hanifa Shabazz was interviewed in connection with the Ballard Spahr investigation. Councilwoman Shabazz told the investigators that Gregory sent her an email when she won the primary to be the next City Council President indicating that the remaining discretionary funds were earmarked for SDA. She interpreted this as meaning they were locked in, and she would approve them upon becoming City Council President. She also indicated that had she known that Gregory was the program manager, she would have considered that a conflict, and would not have granted the funding to SDA. She believed Mr. Gregory to be operating in a pro bono manner, and was surprised to learn he was going to be paid from the grant. She granted the money to SDA because of the inducements of Gregory and based on his history with Council and in the community.

12. Marchelle Basnight, who is now the Chief Financial Policy Advisor for the City Council President, and has held various finance related positions under former City Council Presidents going back to 2003, was also interviewed. She worked as Deputy Chief of Staff for City Council President Gregory before current President Shabazz came in. She was unaware any of the grant money would be going to Gregory and was unaware he would be the program manager. She said that in December of 2016 she had never seen the discretionary funds so low before, and sent an email to both current President Gregory and incoming President Shabazz advising them of same. She said that if she had known Gregory would be paid directly, she would have raised a red flag on the grant because of the conflict.

13. The last interview was of Wilbert Miller, the director of the PAL-W who accepted the grant funds and passed them to SDA and Gregory as a pilot program because the PAL-W had Non-profit 501(c)3 status and SDA did not. He said he was unaware of how SDA was run, that he was the go between for Gregory and the Council but that he had signed most of the paperwork without really reading it. He indicated that he did not draft any of the paperwork for the grant, and hadn't even read it, merely signing it.

14. This investigation reviewed a number of relevant documents. These documents include the check made to PAL-W, and subsequently to SDA, the original grant application, the meeting minutes for SDA and PAL-W discussing SDA, and emails from Gregory to Shabazz and Basnight asking for the grant. There are also notarized forms filled out by Gregory indicating that he is an elected official, has no conflicts of interest and should he develop any he will immediately inform the city solicitors office.

15. On April 11, 2019 the Wilmington Ethics Commission held a hearing in reference to the alleged ethical violations of Gregory. On that day Gregory admitted to an ethical violation, specifically that he violated Wilmington City Code 2-340(f)(3) which prohibits elected officials from utilizing the influence of his or her office for personal pecuniary gain, or to unduly influence the behavior of others. He also stipulated to the facts underlying that violation as well, including the fact that he pressured Councilwoman Shabazz into signing the grant and that he had a personal pecuniary gain.

16. Your affiant believes that Theopalis K. Gregory, Sr. violated Title 11 Section 1211(2), Official Misconduct, class A misdemeanor and Title 11, Section 1212 (1), Profiteering a class A misdemeanor.

17. Official Misconduct Title 11 section 1211 (2) states; a public servant is guilty of Official Misconduct when, intending to obtain a personal benefit, the public servant knowingly refrains from performing a duty which is imposed by law or clearly inherent in the nature of the office. Here, Gregory refrained from performing his ethical duties under the Wilmington City Code and intended, and actually did, obtain a personal benefit.

18. Profiteering Title 11 Section 1212 (1) states; a public servant is guilty of profiteering when, in contemplation of official action by the public servant or by a government entity with which the public servant is associated, or in reliance on information to which the public servant has access in an official capacity and which has not been made public, the public servant acquires a pecuniary interest in any property, transaction, or enterprise which may be affected by the official action or information. Here, Gregory obtained a pecuniary interest in SDA which would have received the grant money, and he contemplated the official action of Councilwoman Shabazz in signing the grant.

19. Your affiant prays that this warrant is signed against Theopalis K. Gregory Sr. for Official Misconduct 11/1211 (2) and Profiteering 11/1212 (1).

Affiant: CIV ZIEMBA (00000) of DEPT. OF JUSTICE N/C

Victims:	Date of Birth	Relationship of Victim to Defendant
WILMINGTON CITY COUNCIL		Employer

SOCIETY/PUBLIC

Victimless Crime

\_\_\_\_\_  
Affiant

Sworn to and subscribed to before me this \_\_\_\_\_ day of \_\_\_\_\_ AD, \_\_\_\_\_.

\_\_\_\_\_  
Judge/Commissioner/Court Official

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