

Saturday-Sunday, May 16-17, 2020 Weekend Edition

Facebook Page Complaint Against Robinson Settled

By Ron Daniel, Editor

Editor's note: *Commissioner Kelly Robinson had not signed the agreement when the Sentinel went to press Friday afternoon. Therefore, the story that ran in the May 16-17 print edition of the Sentinel shows Robinson had not signed the deal. Douglas County resident Brenda Bohanan told the Sentinel late Friday night she learned from her attorney that Robinson had signed the agreement.*

A Douglas County resident who said a county commissioner violated her First Amendment rights by blocking her from his public Facebook page has settled the complaint.

Brenda Bohanan, through her attorney, sent District 2 Commissioner Kelly Robinson a demand letter in March seeking compliance actions be taken with regard to his Facebook account.

The Douglas County Board of Commissioners voted April 21 to settle the complaint with Bohanan.

As of Friday afternoon, more than three weeks later, Bohanan said the only hold-up was getting Robinson's signature on the deal and having him unblock her and others.

Under the agreement, Robinson and the BOC will pay Bohanan and her attorneys \$2,500, with Bohanan getting \$750 in damages and her attorneys receiving \$1,750. Robinson also agreed to unblock and restore access to blocked users to his public Facebook account as part of the agreement.

"I would like it to be clear that I neither asked for nor expected any payment from this settlement," Bohanan said. "The only goal was for Commissioner Robinson to comply with the court's ruling that citizens not be blocked, their comments deleted, and their rights not be infringed in any other way on his social media accounts."

Robinson was represented by former Georgia Attorney General Sam Olens. County Attorney Ken Bernard represented Robinson and the BOC. Bohanan was represented by Atlanta constitutional law attorney Gerry Weber and attorney Clare Norins, who serves as director of the UGA First Amendment Clinic.

"It's unfortunate that instead of Commissioner Robinson handling this issue personally, he chose to burden the county taxpayers by forcing attorney involvement," Bohanan said, adding that it was unclear who would be paying Olens' fees.

As of Friday afternoon, Bohanan said Robinson still had not signed the agreement, that he had not unblocked her and others — terms that were part of the settlement — and that the monetary portion of the settlement had not been paid.

"We would just like to see that happen before the election is over because if he is continuing to block Ms. Bohanan from his official Facebook page in violation of her First Amendment rights, people should be aware of that when they go to vote. We believe he plans in good faith to sign it," Norins said. "We'd

like him to do it sooner rather than later and to also go ahead and unblock her, which is a term of the settlement.”

Weber said the settlement is binding and that while they understand that people sometimes need more time to get things done during the pandemic, they didn’t expect getting Robinson’s signature to take as long as it has.

“He’s agreed to all the terms so it’s just a matter of getting the document signed and processed,” Weber said Friday afternoon. “That’s the only thing between where we’re at and where we should be.”

Robinson blamed Bernard, the county attorney, for not making him aware the agreement needed his signature. He said he assumed that since the BOC voted on the settlement, that was all that needed to be done.

“Why I got to hear it from the media that there’s supposed to be some type of signature and nobody contacted me?” he said.

He refuted Bohanan and her attorneys’ claims that he still has her blocked on his public Facebook page. He said that his personal Facebook page previously had “Commissioner” in the name and that he has taken that word off and uses that page for only personal posts. While he said he understands his Facebook accounts for his public office and his re-election campaign are required to be open to everyone, he said his personal account does not.

And he told the Sentinel Friday afternoon he planned to reach out to his attorneys to sign the agreement now that he is aware his signature is required.

Norins said that courts have looked at the issue of elected officials blocking members of the public from their Facebook pages. She said some of the “most helpful case law” from federal courts on the subject involves President Trump blocking people on his Twitter account.

“The case law there is very clear that when an elected official uses a social media account to discuss official business or matters pertaining to that elected official’s official duties, that that creates a limited public forum,” Norins said. “Even though it’s online, it’s still a forum where people can interact with the politician or the elected official. They can a) express their own views and b) receive information from the elected official about the official’s views. So it’s kind of a two-way street of exchanging information.

“So there’s a First Amendment right for members of the public and particularly the constituents of the official to be able to participate in that online forum. So when you have an elected official that blocks somebody because the official doesn’t like that person’s opinion or point of view, that is viewpoint discrimination, which if you’re a government official you cannot engage in viewpoint discrimination against the public. That is a violation of the First Amendment.”

Weber has settled several cases in Georgia similar to the one involving Robinson.

Robinson is the longest serving member on the county commission. He was first elected in 2008 and is seeking a fourth term this year. He faces two challengers in the June 9 Democratic primary — nonprofit founder Kascia Polk and realtor Amy McCoy — with the winner taking the seat since no Republicans qualified.