

Conflicting Laws Complicate Grimaldi Case

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Michael P. Kelly

A Sussex County Superior Court judge on Friday said a motion to dismiss the wrongful termination lawsuit filed by former New Castle County Chief Administrative Officer David Grimaldi will largely hinge on laws that dictate the power of the county executive to hire and fire top aides.

"To put it in Latin, I think it is *slamus dunkus*," said Michael Kelly, a Wilmington attorney representing Gordon and the county. "Gordon can fire him for whatever reason he wants."

Kelly argued that law giving Gordon the ability to fire his chief administrative officer "with or without cause" exempts Grimaldi from whistleblower protection. He added that when laws conflict, more recent statute and more specific laws are given precedence.

"This case cries out for a motion to dismiss," Kelly told the judge. "There is no case law that supports what he is trying to do."

If Grimaldi prevails on the wrongful termination claim, by law he could be reinstated to his former post.

Despite this, Bradley and Kelly noted the potentially awkward outcome of reinstatement as Grimaldi's firing has become an ongoing drama in which he has revealed he recorded hundreds of conversations on his cellphone during his time in government. Gordon's top officials have accused Grimaldi of trying to use the recordings to derail the executive's run for an unprecedented fourth term.

Kelly argued Gordon's comments about why Grimaldi was fired do not equate to defamation because it was a statement of opinion. He said state law dictates that statements of opinion based on known facts cannot rise to defamation.

He called Gordon's comments about Grimaldi's statement to the police a "reasonable inference."

"It is his opinion that he was using undue influence," Kelly said.