

COLORADO INDEPENDENT ETHICS COMMISSION

Complaint Nos. 21-18, 22-07, 22-22

ORDER DENYING CONTINUATION OF STAY

IN THE MATTER OF: TINA PETERS

At the request of the Independent Ethics Commission (“IEC”), the parties briefed the issue of whether the stay of Complaints 21-18, 22-07, and 22-22 should be continued. The IEC previously entered an order staying consideration of the complaints against Respondent until the criminal case against her, Case No. 2022CR371 in Mesa County, was resolved at the district court. At a jury trial in August 2024, Respondent Tina Peters was convicted of seven counts, including four felonies. In October 2024, Respondent was sentenced to nine years of incarceration. She has filed a notice of appeal.

Respondent asks us to stay the ethics complaints against her pending that appeal “and any subsequent trial.” Respondent argues that consideration of the ethics complaints while her appeal is pending may “undermin[e] Peters’ ability to present a robust defense” and “cast[] doubt on the fairness of criminal proceedings.”

Pursuant to the criteria outlined in *People v. Shifrin*, 342 P.3d 506, 513 (Colo. App. 2014), the IEC denies the request to extend the stay. First, the issues presented by the criminal case do not significantly overlap with those presented in Complaints 21-18, 22-07, and 22-22. The criminal case centered around Respondent’s security breaches of elections systems in Mesa County, where she was the county clerk. The ethics complaints against Respondent allege improper use of taxpayer funds and improper receipt of gifts and travel expenses in violation of Article XXIX. The alleged donor of some of the gifts is the same individual who was granted unauthorized access to Mesa County elections systems, Mike Lindell, but otherwise the universe of facts underlying the ethics complaints appears to be distinct. *See Shifrin*, 342 P.3d at 514 (finding that indictment did not weigh in favor of a stay where “the two proceedings have minimal overlap”).

Second, the complainant in these matters does not have “private interests” in “proceeding expeditiously” as contemplated in *Shifrin*. However, there is some prejudice to complainant in further delaying adjudication of these matters. The criminal trial took two and a half years, and the IEC is concerned that further delay will result in complainant being unable to produce evidence in support of their case due to staleness.

Third, the private interests and burden on Respondent do not favor a stay. The only interest Respondent can articulate in this regard is that if Respondent obtains a new trial, her testimony in this proceeding may impinge on her Fifth Amendment right against self-incrimination. Given the limited overlap between Respondent’s criminal case and these complaints, this factor does not weigh heavily in favor of Respondent.

Finally, both the IEC and the public have a strong interest in expeditious resolution of ethical complaints against public officials. *See Romero v. City of Fountain*, 307 P.3d 120, 125 (Colo App 2011) (“Where an investigation reveals a violation of public trust or the kind of information the public would have the right to know, that fact weighs against granting a stay.”).

In deference to the criminal trial, the IEC stayed these complaints during the pendency of that case. That factual record is now closed, and Respondent cites no case in favor of staying a civil proceeding during the pendency of a criminal appeal.¹

The request for continuation of the stay is DENIED. This case will proceed to an investigation pursuant to IEC Rule 5(I).

SO ORDERED this 25th day of November, 2024.

The Independent Ethics Commission

Sarah Mercer, *Chair*
Daniel Wolf, *Vice-Chair*
Elizabeth Espinosa Krupa, *Commissioner*
Lora Thomas, *Commissioner*
Cole Wist, *Commissioner*

¹ The IEC notes that Colorado’s caselaw regarding the standard for staying a case is different than that cited by Respondent from other jurisdictions. Regardless, the cases cited by Respondent concerned stays pending criminal trials, not stays pending appeal.