

April 11, 2022

Speaker Spencer Gosch and the
Members of the South Dakota House of Representatives
500 East Capitol Ave
Pierre, SD 57501

Dear Speaker Gosch and Esteemed Members of the House of Representatives:

Some have asked why I have not spoken out about the accident on September 13, 2020. I have remained largely quiet about this matter out of respect for the legal process and Mr. Boever's family. On numerous occasions, I've expressed my deep sympathy to the Boever family, both publicly and privately.

In a few hours, your vote will set a precedent for years to come. No state has ever impeached an elected official for a traffic accident.

Will all elected officials, whether on or off the job, be held to the same standard? It is times like these that we must consider Article Five of the United States Constitution in that all are presumed innocent until proven otherwise, and once determined to be otherwise to pay the price set forth by law.

We have gone through the process and the price has been paid.

However, this matter instantly became about far more than an accident and the adherence to the law. It was immediately seized and politically weaponized by Governor Noem.

Within days of the accident and contrary to her public assertions, the Governor requested I resign. She took the unfortunate circumstances of a man being killed in a traffic accident to make her political moves. I remained quiet to let the legal process play out; to let the facts stand on their own, and to not color any public sentiment.

I could not resign then and cannot resign now because the incident did not impede my ability to perform the functions of Attorney General including on-going investigations of the executive office. Knowing Governor Noem could hand select my replacement, I felt it appropriate to stay in office to maintain the checks and balances within the state.

I ran for Attorney General because our state had scandals such as EB-5 and GEARUP handled without proper oversight. We needed someone to stand up and fight the special interests that want to dominate Pierre.

On Sunday evening, September 13, 2020, the Governor held a press conference stating she was in charge of the investigation. Ethically, the Governor should never have involved herself. She then led people to believe independent organizations would be in command of the investigation. To the contrary, an agency working for her was involved giving her access to confidential material.

My office has multiple ongoing investigations into the Governor's alleged activities and people associated with her. However, despite her procedural interference and bias towards me, I believe she has rights and should have the ability to let the process prevail regarding these open investigations regarding her and her administration.

Justice should be blind and we all have rights under the state and federal constitution.

However, Governor Noem violated my civil rights and my privacy rights. She broke the law and violated the House of Representatives cease and desist order to taint the evidence and public perception against me.

The judge in my case did not offer me a jury trial. Had I been able to have a jury trial, I would have taken that opportunity. But after considering the stress on many involved, I chose to plead to these matters so we could all move on and the family would not have to endure them further.

The Governor could not remove me through that process and the investigations into her continued, so she immediately sought impeachment proceedings.

Since I refused to resign, the Governor sought to undermine, criticize and usurp the powers and privileges of the House at every step.

I have served three military deployments and over 25 years in our military to defend our rights; I believe I should get to exercise my God-given rights just like all Americans and all South Dakotans.

Constitutional Standards

Some have described the House inquiry as a grand jury process. While that might be true at the federal level, in South Dakota we have a different process. In South Dakota, anyone impeached by the House of Representatives is suspended for at least 20 days before a Senate trial begins. Therefore, the House of Representatives in South Dakota has a higher obligation than a grand jury. It cannot just seek to bring allegations without a high probability that there will be a conviction in the South Dakota Senate as their action alone (unlike the U.S. House) causes immediate harm.

Furthermore, even in the grand jury process, few prosecutors bring a case just to meet the standard of a grand jury. Prosecutors must believe their case is strong enough to obtain a conviction at trial. Otherwise, they are not likely to waste the effort in the first place. Therefore, I agree with the House Investigations Committee that the House standard needs to be at least a "Clear and Convincing Standard."

This impeachment must fail when that standard is applied to the various categories outlined explicitly in the South Dakota Constitution. We are a nation of laws, believing in the rule of law and applying the plain meaning of the words of our various Constitutions and laws, not just seeking mob rule because we disagree with someone, do not like the job they are doing, or do not like that they were elected in the first place.

Constitutional Provision Regarding Crimes

The prosecutors admitted there was no cell phone use at the time of the accident. Therefore, the charge does not seem to apply to impeachment because who among you has never used their cell phone while driving? Cell phone usage was ruled ~~is not right but~~ unrelated to the accident and not the basis for impeachment.

That only leaves one Class 2 misdemeanor for not staying in the lane of travel. The prosecutors extensively explained, on multiple occasions, why they could not bring a manslaughter charge and why it did not apply. They also explained that the one Class 2 misdemeanor that did remain did not relate to the death of Mr. Boever. The Constitution explicitly says "crimes,"...not crimes that are impossible to bring or crimes adding a fact or element not part of the offense.

Crimes have specific elements. Therefore, to impeach under the crimes section, you would need to impeach for the commission of one Class 2 misdemeanor—if you even believe it occurred—a perilous precedent. Some have looked at an

impeachment proceeding from the 1910s for guidance, and future impeachment proceeding will to the standard you established here.

Setting such a low precedent will affect many members of the Legislature who have been convicted of Class 2 and Class 1 misdemeanors. If this is the case, when will their impeachment or expulsion proceedings begin if that is the new standard? Who might be next to withstand impeachment whether based on the merits of a case or gubernatorial fiat?

That leaves malfeasance. What malfeasance is precisely being alleged? There have been many broad strokes, but little specificity. To date, there has been much speculation, conjecture and vague references. I am addressing multiple instances of "Evidence, Allegations & Misconceptions" in a separate document.

In Conclusion

It has been 576 days since the accident. I mark it on my calendar each day and reflect. I want to say, "I am Sorry". Every day I think about Joe Boever, a man I had never met, who changed my life forever. I am sorry the family has had to endure this tragedy in so many ways and has been put in the middle of this highly political situation.

To this point, the investigators have spoken, the judge has spoken, the House Investigation Committee has spoken and I have been compliant throughout the entire process.

Your decision could overturn an election and set forth a dangerous precedent for all South Dakota elected officials. As such, I respectfully ask that you adopt the House Investigation Committees' majority report and declare this matter complete and final and let the healing process continue.

May God Bless each of you and the great people of South Dakota.

Respectfully,

Jason R. Ravensborg

