



**STEPHEN B. RUSSELL**  
*Office of the State Attorney*  
*20th Judicial Circuit*

Serving Charlotte, Collier, Glades, Hendry and Lee

**FOR IMMEDIATE RELEASE**

**August 11, 2006**

**NO CRIMINAL CHARGES AGAINST NAPLES OFFICERS IN  
MISREPRESENTATION INVESTIGATION**

State Attorney Steve Russell announced today that the investigation into Naples Police Officers Joseph Popka and Robert McGregor in connection with alleged Grand Theft and Making a False Claim of Academic Degree has been completed. No criminal charges will be filed.

This review was limited to possible criminal prosecution, and does not comment in any way upon any policy, procedure, administrative or other civil issues that may be involved.

A copy of the memorandum, which summarized the investigation and formed the basis of this decision, is attached.

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**MEMO**

TO: Randall B. McGruther, Chief Assistant State Attorney

FROM: Dean R. Plattner, Assistant State Attorney

DATE: August 9, 2006

RE: Joseph Popka / Robert McGregor  
SAO # 2006-CO-IN-0039

I have reviewed the case report compiled by Investigator Tim Cully relating to the above-named subjects. Popka and McGregor were Naples Police Department officers who received incentive pay based upon bachelor's degrees from Almeda University. Almeda allegedly provides degrees based upon an evaluation of life experience and other educational experiences.

McGregor provided his degree to the department in 2003, and Popka did so in 2005. As a result, they each received incentive pay in an aggregate amount of more than \$300. This incentive pay was later determined to be unjustified, as Almeda is not accredited within the requirements of the statutes and FDLE rules.

There is no evidence that either officer ever specifically misrepresented the nature of the degree or Almeda's accreditation. The department's administrative assistant for professional standards processed McGregor's submission, and he began receiving payments. When Popka submitted his degree 2 years later, the same person indicated that she wasn't sure that this type of degree qualified, and she would check with FDLE.

While she found out that an Almeda degree was not acceptable, and did not process it, there is no indication that Popka was ever advised of this. Popka later showed his degree to a person in the payroll office and began receiving the incentive pay.

We were asked to review this matter by the Chief of Police for possible criminal charges including theft and making a false claim of academic degree. Our review is limited to possible criminal prosecution, and does not comment in any way upon any policy, procedure, administrative or other civil issues that may be involved.

Falsely claiming an academic degree is a misdemeanor offense under F.S. 817.567.

However, that statute has been held to be unconstitutional by a federal court, at least as it relates to a situation where a person has a degree, but not from an institution with accreditation recognized in Florida. *Strang v. Satz*, 884 F.Supp. 504 (S.D. Fla. 1995).

Therefore, a criminal prosecution on this charge is not legally permitted on the facts of this situation.

As for a theft charge, the law would require us to prove beyond a reasonable doubt that the officers intentionally obtained or used money that they knew they weren't entitled to. Under

the available evidence in this case, which includes the fact that these degrees were reviewed and approved by at least two other persons in the police or city administration, albeit erroneously, we cannot prove this necessary element of criminal intent.

This matter is being closed at this time without further action by this office.

cc: William McQuinn, Chief Investigator  
Tim Cully, Investigator