

The Sacramento Bee

SACRAMENTO, CALIFORNIA, Tuesday, January 24, 1978

Lackner Contends Firing Of Doctor Was Illegal

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State Health Director Dr. Jerome Lackner said Monday he was advised by the Health Department's legal counsel that Dr. Josette Mondanaro's dismissal as state drug abuse director was "not legal" and "would never stand up" in a hearing.

In an explosive day of testimony on Dr. Mondanaro's appeal before a state Personnel Board hearing officer, Lackner told how the decision to fire her was made by Health and Welfare Agency Secretary Mario Obledo and Gov. Brown over the objections of Lackner and chief state health administrator Ray Procnier.

At one point, he said, Procnier threatened to resign rather than fire Dr. Mondanaro, who Procnier and Lackner say is an exemplary administrator.

Dr. Mondanaro was fired Oct. 25 as

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director of the Health Department's Substance Abuse Division for writing, on state letterhead, an allegedly obscene letter decrying the use of children in pornography. She contends Gov. Brown ordered her fired because she is a lesbian who is viewed as a political threat to his reelection campaign. And, she says, her repeated clashes with agency heads precipitated her firing.

Brown and his staff insist she was fired solely because of the language in the letter, which Lackner said exhibited "bad judgement" and warranted, at best, a reprimand. Obledo has declined comment on the Mondanaro case while it is on appeal.

Lackner said he was advised by then-Health Department chief counsel Quin Denvir that Dr. Mondanaro's dismissal — the day before her probationary period expired and four months after the controversial letter was written — was illegal.

"He felt the whole procedure was not legal, that it would never stand up to the type of process we are engaged in today," Lackner said under cross-examination by deputy state Attorney General Anthony DaVigo. "He clearly stated she will overturn this, that it will go to a hearing and be overturned."

Denvir resigned from the Health Department shortly after Dr. Mondanaro was fired and now works in the state Public Defender's office.

Lackner said he was pressured by Obledo and Dr. Xavier Mena, an executive assistant to Obledo, to dismiss Dr. Mondanaro, and that Mena actually wrote most of the dismissal letter. The health director said he believed he would be fired if he did not sign the letter.

Under intensive questioning late Monday and today by Dr. Mondanaro's attorney, Ephraim Margolin, Mena denied harassing her. Margolin contended that Mena harassed Dr. Mondanaro with an endless stream of memos and directives demanding detailed information on impossibly short notice.

Mena expressed irritation with Margolin's questions. He said he expected her, as a division chief, to have such information readily available.

Lackner Monday said he and Procnier met at one point during events preceding the Mondanaro firing with J. Anthony Kline, the governor's legal affairs secretary. During that meeting — which Lackner said did not reach a "happy resolution" — he said Kline expressed concern that the controversial Mondanaro letter might be obtained by conservative Brown opponents and used against him in his re-election campaign.

Lackner said state Sen. John Briggs and former Los Angeles Police Chief Ed Davis were mentioned by Kline as opponents who might use the letter against the governor.

According to Lackner's account of the meeting: "Mr. Kline said, 'The governor's opponents will get this letter — in fact they probably already have it — they will print this letter and use it against us...'"

Kline said he recalls meeting with Lackner at the time but "had not discussed the subject with the governor and did not know the governor's views..."

"What Lackner apparently did not understand was that there were three important factors involved. Dr. Mondanaro wrote a letter so obscene no paper in this state would publish it. She wrote it on state stationery. She

wrote the letter and signed the letter in her official capacity.

"Those three factors . . . in my view made it extremely difficult to maintain her in her position."

He declined to comment on any discussion of the possible political ramifications of the letter for the governor.

Dr. Mondanaro contends the letter was a personal communication and says she did not intend to use state stationery. However, DaVigo noted a portion of the letter dealt with a drug abuse proposal which concerned Dr. Mondanaro in her official capacity.

A rare look at the high-level inner workings of government was provided by Lackner's testimony — including what appeared to be major battles between Health Department and agency heads over operation of the Substance Abuse Division during Dr. Mondanaro's tenure.

Several days before the dismissal, Lackner said Obledo called him to see if the health director had acted on Obledo's directive to fire her.

"Mr. Procnier had quit or almost quit, because he said he was not going to do it," Lackner said. "Obledo called and wanted to know if we had done it. I told him Procnier would not do it, and I told him I would not fire him (Procnier) for not doing it. And I told him I would not quit, that he would have to fire me..."

"He said something to the effect that, 'Well, that may come to pass,' implying that he would go upstairs (to the governor's office) to get it done."

Lackner said Mena insisted that allegations of incompetence and poor administrative ability be included in the dismissal notice, and Lackner refused. One such reference was included in the dismissal notice signed by Lackner, but it was attributed to Mena and removed from the notice during the appeal hearing on a motion by DaVigo.

"On all those grounds, we said no," Lackner testified. "But that issue never came to fruition, because the governor took a public stand that she be fired."

Lackner said he and Procnier had on several occasions attempted to halt what Dr. Mondanaro claims was



DR. XAVIER MENA
... expressed irritation

harassment from the agency level while she was drug abuse director.

When he first saw the offending letter in a meeting with Obledo a week to 10 days before the dismissal, Lackner said: "I felt kind of let down by Dr. Mondanaro. She could have written a letter at home on pink floral stationery or made a long-distance phone call at home..."

"I felt let down because in a moment of inadequate reflection she did something that was going to be a major public issue. She delivered leverage to them (agency heads). The letter produced the leverage to do what they intended to do.

"Her immediate superior (Procurier) was struggling with the agency to let her have the freedom to do her job and was doing an admirable supervisory job by insisting that their requests (to her) go through him. By doing that (writing the letter), she pulled the pins from under us. When I saw the letter in Mr. Obledo's office, I got a sick feeling in my stomach."

Asked by Dr. Mondanaro's attorney, Margolin, if he would describe agency demands on Dr. Mondanaro as harassment, he said: "She knew the agency was less than delighted with her, and she had to call on the good offices of Mr. Procurier as chief deputy to fend them off."

Lackner also described Procurier's reaction to the letter when Lackner showed it to him:

"He said he had one question, 'Which side (of the child pornography issue) is she on?' I said she is vigorously opposed to the sexual abuse of children. He said, 'Okay, then it's no problem'."

Under lengthy questioning by Margolin, Lackner described efforts by agency staff to bend civil service rules to accommodate favored employees — notably Henry Collins, an Obledo acquaintance, who Dr. Mondanaro refused to hire in her division because she believed he was unqualified, and Bill Garcia, a Health Department employee in its personnel division who was allegedly promoted improperly at Obledo's request.

In both cases, Lackner said Dr. Mondanaro expressed vehement opposition to what she viewed as improper tampering with the civil service system.

"She was incensed," he said, "over the abuse of a process that was designed to be fair and equitable to all concerned."

It is Margolin's contention that her criticism of agency operations made her a sore point with Obledo and Mena, who he believes moved to fire her when the letter surfaced — apparently after it had been stolen from her files.

Mena testified briefly late Monday, hinting that he had to intervene actively in the Mondanaro dismissal because state health officials dragged their feet in processing the necessary papers. He is expected to resume his testimony today.

The hearing was moved Monday from the Personnel Board to the Employment Development Department auditorium because of an overflow crowd of spectators.