

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

S.V.

Plaintiff,

-vs-

Case No: 10-919

KENNETH KRATZ

Defendant.

COMPLAINT

This is a civil action pursuant to 42 U.S.C. § 1983 alleging that defendant Kenneth Kratz performed his functions as a District Attorney for Calumet County, State of Wisconsin, in a manner that denied plaintiff her right to Equal Protection and Due Process of Law as guaranteed to her by the Fourteenth Amendment to the United States Constitution. Plaintiff seeks a declaration that the conduct of the defendant violated her Constitutional Rights and whatever damages the Court may deem just and proper to remedy these violations.

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343(a) (3).

2. The Eastern District of Wisconsin is the proper venue for this action pursuant to 28 U.S.C. § 1391(b), in that a substantial part of the events and omissions giving rise to plaintiff's claims occurred in that district.

II. PARTIES

3. Plaintiff S.V. is an adult resident of the State of Wisconsin currently living in Outagamie County, Wisconsin. She is now 26 years old.

4. Defendant Kenneth Kratz is an adult resident of the State of Wisconsin currently living in Outagamie County Wisconsin. All actions for which liability against said defendant sought in this complaint were taken by defendant Kratz using the authority and powers granted to him as District Attorney under §978.05 Wis. Stats and while acting within the scope of his employment.

III. FACTUAL ALLEGATIONS

5. On August, 12, 2009 S.K., former live-in partner of S.V. and the father of her child was charged with Felony Strangulation and Suffocation of S.V. under circumstances that constituted domestic abuse as that term is defined in §973.055 of the Wisconsin Statutes.

6. The strangulation and domestic abuse on the part of S.K. caused S.V. to fear for her life and the safety of her child.

7. S.V.'s fears caused her to seek the help of legal authorities after years of domestic abuse that she endured because she was reluctant to invite law enforcement intervention into her family situation.

8. After S.V. had reported to police that S.K. had beaten and strangled her, Calumet County District Attorney Kenneth Kratz requested a meeting with S.V. as the complaining witness in a felony domestic abuse prosecution.

9. At the time she met with defendant Kratz, S.V. was informed that he would be the person in charge of prosecuting S.K. and, as such, she would be relying heavily on him to assist her in performing her duties as a complaining witness during the course of the prosecution.

10. After her initial meeting with Kratz, S.V. believed that Kratz had both influence and control over the prosecution of S.K., including S.K.'s sentence and the conditions of his release on bond.

11. S.V. also understood that Kratz was responsible for ensuring that she was protected from harm or threats of harm arising out of her cooperation with law enforcement and the prosecution of the criminal charge against S.K.

12. At the meeting with Kratz, S.V. also understood that Kratz and law enforcement in general would protect her identity and privacy as much as possible if she cooperated with the criminal prosecution of S.K. and that the contact information she provided to the authorities would be kept confidential and would be used only for law enforcement purposes.

13. Almost immediately following her meeting with defendant Kratz, S.V. was contacted by Kratz using text messages soliciting a sexual relationship with S.V. and reminding her that he had considerable money and power as a District Attorney that made a relationship with him attractive and desirable.

14. In a three-day period, October 20-22, 2009 defendant Kratz sent thirty (30) text messages urging S.V. to have a sexual relationship with him which he characterized as "the riskier the better" which, in the context of his duties as the prosecutor of S.V.'s

15. Kratz urged S.V. to consider what her life would look like in five years, what her income would likely be and the benefit of having a relationship with a man who had a lot of money.

16. Kratz linked his request for a relationship with S.V. to the pending prosecution stating "Quite frankly I don't know what would happen. It would go slow enough for Shannon's case to get done. Remember it would be special enough to risk all".

17. When S.V. did not respond favorably or promptly, Kratz chided her stating, "Hey.. Miss Communication, what's the sticking point? Your low self-esteem and you fear you can't play in my big sandbox? Or???"

18. In a text message following the preceding communication, Kratz emphasized "I'm serious! I'm the atty. I have the \$350,000 house. I have the 6-figure career. You may be the tall, young, hot nymph but I am the prize! Start convincing."

19. As the elected District Attorney for Calumet County at the time he sent the text messages described above, defendant Kratz had no formal supervisor or formal supervisory structure that monitored his job activities. He was, in essence, his own superior authority, directly answerable to no one for his actions.

20. As the elected District Attorney for Calumet County, defendant Kratz was effectively the chief law enforcement officer for the County.

21. At the time she came to defendant Kratz in his capacity as District Attorney, S.V. had suffered years of domestic abuse including beatings and strangulation.

22. Defendant Kratz knew, as a result of his job, training and experience that victims of domestic violence were particularly vulnerable to harm from unwelcome sexual requests and the abuse of power, both well known factors that often motivated criminal domestic violence.

23. Defendant Kratz knew that S.V. would be unusually sensitive to sexual requests directed toward her by a person in his position of power and that his solicitation of S.V. would be highly likely to cause her harm as well as to be perceived by her as a threat of harm.

24. Defendant's communications with S.V. as described in this complaint were directed to her because of her sex. Kratz used the power and position he held as District Attorney to gain access to S.V. and to pressure her to have a sexual relationship with him.

25. After anguishing over the messages sent to her by Kratz, S.V. reported the messages to the Kaukauna police as she feared further contact with Kratz and Calumet County.

26. The police reported the conduct of Kratz to the State of Wisconsin Department of Justice which undertook a criminal investigation of Kratz and found no criminal wrongdoing.

27. Given the conflict of interest created by Kratz in having solicited a sexual relationship with a domestic abuse victim/witness during the course of a prosecution, Kratz was forced to withdraw from further prosecuting the case against S.K. and the prosecution was handled by an assistant attorney general from the Department of Justice.

28. As a result of her experience with Kratz, S.V. insisted that she not be required to attend any proceeding in Calumet County related to the prosecution of S.K.

29. On a plea of no contest S.K. was convicted of strangulation and suffocation of S.V. on April 5, 2010.

30. As a result of the report of Kratz' conduct to the Kaukauna police who forwarded the information to the State of Wisconsin Department of Justice, Division of Criminal Investigation, Kratz was urged to voluntarily remove himself from the Crime Victims Rights Board, a board for which he held the position of Chairman.

31. Kratz at first resisted the suggestions to remove himself from the Crime Victims Rights Board but then agreed to resign his position with the Board when he was told that if he did not remove himself, information concerning his contacts with S.V. would be publicized to the District Attorneys Association, a voluntary organization of state prosecutors that had no formal authority over Kratz.

32. At or about the same time, Kratz was told he should self report his conduct to the Office of Lawyer Regulation (OLR), the regulatory body that is responsible for investigating whether or not the conduct of attorneys in the State of Wisconsin violates the attorneys Code of Professional Responsibility (CPR).

33. Under the CPR, attorneys are forbidden from engaging in conduct that creates or promotes a conflict of interest with regard to an attorney's legal responsibilities.

34. Under the CPR attorneys may not engage in sexual discrimination or sexual harassment in carrying out their professional responsibilities as lawyers.

35. Under Chapter 950 of the Wisconsin Statutes, entitled "Rights of Victims and Witnesses of Crime", a witness has a right to protection from harm and threats of harm arising out of the witness' cooperation with law enforcement and prosecution efforts.

36. The sending of messages by defendant Kratz soliciting a "risky" sexual relationship with him while he acted as the prosecutor of a domestic abuse case in which S.V. was the complaining witness arose from her cooperation with law enforcement and was both harmful and threatening to S.V.

37. The conduct of defendant Kratz was sexually harassing, sexually discriminatory and created an immediate conflict of interest that made S.V.'s participation in the justice system as both a victim and a witness more difficult and less private.

38. The illicit conduct alleged herein is part of a pattern of illegal discrimination that began at least ten years prior to the incident involving S.V. when Kratz made similar unwelcome harmful sexual advances over a period of months directed at a female victim/witness in a case where he was responsible for prosecuting the woman's husband for violent domestic abuse.

39. In the incident described in the preceding paragraph, Kratz touted his connections with powerful people and stated that he could have a dominatrix from Chicago with whom he was familiar train the victim/witness to be more submissive to his advances.

40. In September of 2010 S.V. was contacted by a member of the press who had obtained copies of the text messages she had provided to the police from an unknown source. The reporter asked that she confirm she had received those messages which she did.

41. As of September of 2010, S.V. believed that District Attorney Kratz had used his power and connections to avoid accountability for his behavior.

42. OLR closed its file on Kratz' self report without initiating a formal investigation of Kratz' conduct.

43. The Crime Victims Rights Board released a public statement asserting that they have no statutory authority to address sexual harassment or sexual discrimination by a District Attorney directed at a victim or witness.

44. Kratz' conduct was to be investigated in the course of a removal proceeding initiated by the Governor of the State of Wisconsin but the investigation was closed as a result of Kratz' voluntary resignation as Calumet County District Attorney.

45. Kratz caused S.V. a high degree of humiliation, anxiety and distress and a substantial loss of her and her family's privacy that would not have occurred but for his conduct.

WHEREFORE, the plaintiff hereby prays the Court to:

- A. Declare that the defendant's conduct as alleged herein violated her right to Due Process of Law and Equal Protection under the 14th Amendment to the United States Constitution;
- B. Declare that the defendant used his power and position within the scope of his employment as a District Attorney to effect the Constitutional violation alleged;
- C. Award her any and all damages for the harm caused to her as a consequence of the defendant's unconstitutional conduct;
- D. Grant the plaintiff a jury trial on any issues about which there is a reasonable dispute of fact; and
- E. Any other relief the Court deems just and proper.

Dated at Monona, Wisconsin this 15th day of October, 2010.

Respectfully submitted:

FOX & FOX, S.C.

/s/ _____
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