

From: Ken Kratz [mailto:kratz [redacted]]
Sent: Wednesday, January 04, 2017 3:38 PM
To: Fallon, Thomas J. <fallont [redacted]>
Cc: [redacted]
Subject: Mock Argument

1/4

Tom:

First, I would like to attend the arguments in Chicago on 2/14. Is there something I need to do to arrange seats (I'm quite certain Tom Fassbender wants to join me)?

Second, as the argument may be incredibly fact-specific, I am asking that Fassbender and I be invited to observe/participate in the mock argument I'm sure you intend to do at DOJ. I have to believe that almost nobody knows

more about these 2 cases at the moment (with me just completing my book) and we just want to make sure that any precaution is taken with whomever is doing the argument that they know the "blind spots" in the case.

Third, I have every expectation that the state will prevail at this federal court, and the conviction for Dassey will be maintained. Assuming that occurs, is there any thought for what DOJ intends to do with Dassey---in other words, my belief is that some adjustment to his sentence may be reasonable AFTER you win the appeal. If that is to be considered, I very much want to be part of that process. Obviously I have no official input that I can give, but respect to me (and the 10+ year process) recognizing that the outcome of these 2 cases will forever define my career, I at least want to be heard prior to a deal being cut.

Thanks for your consideration. I assume you may wish to discuss these requests I have made with your boss (Brad Schimel) and will make myself available at your convenience.

Ken

RE: Mock Argument

From: "Fallon, Thomas J." [redacted]
To: Ken Kratz <kratz [redacted]>
Date: Wed, 04 Jan 2017 16:06:03 -0600
Attachments: 32-1 - Notice of Oral Argument-357492.pdf (106.57 kB)

Good afternoon Ken!

Attached you will find the notice of the argument. As you know these arguments are typically 15 minutes-this might go 30 but don't bet on it! They usually terrorize one side or the other-the anticipated losing side. The Clerk is aware of many requests for seating. They courtrooms are very small. There is a chance this gets moved to the ceremonial courtroom. Even still there will not be enough room to accommodate all interested people. However, the 7th Circuit has not released any details even as to the Panel. The Panel will not be known officially until the day of the argument-Feb 14th. If we get the same judges that issued the stay we are in good shape. The clerk is aware of the immense interest especially from the media, the other side as well as the Halbachs.

Here, there is no talk yet of a Moot Court. I don't know the plans. As for the facts, the bet here is that they will watch the video and make up their own minds about that. Remember much of the "whole" record is not before the court. Many reasons for this. Primarily, because this is a Habeas case with a deferential review to the state court (that our Magistrate overlooked sic!); it's a review of the state court findings based on J. Fox's postconviction decision. Requests to enlarge the record were rejected. Early in so the 7th Cir. Has just what was before the magistrate who had what was before Fox in PC setting more or less.....

I will keep you requests in mind when and if they do a Moot Court. Best, Tom

September 2010 Kratz Scandal Breaks

From: Kratz, Ken [mailto:Ken.Kratz@redacted]
Sent: Wednesday, September 15, 2010 10:02 AM
To: Potter, Kevin
Subject: Kratz complaint disclosure

Kevin:

Please recall our series of contacts last fall, wherein you, on behalf of DOJ, discussed resolution of a complaint brought by a young domestic abuse victim who had received text messages from me suggesting a personal relationship after the conclusion of her case.

I'm sure you have kept the correspondence between your department and me (as have I) and the notes taken from our phone conversations. As part of those discussions, I had agreed to resign as Chairman of the Crime Victim's Rights Board. My decision to do so was based, in no small measure, upon your department's assurance that this matter would NOT be publicly disclosed.

In an email to me (from you) dated 11/9/09, you indicate, in part, that ... "depending on what decisions you make (regarding resignation from the CVRB), it may be necessary to disclose information about your interactions with S.V. to the WDAA Board." "... (O)nce the criminal matter involving S.V. has been resolved, all the reports relating to that matter are discloseable to the public. I am not aware of anything which would preclude the disclosure of that information under the public records law."

Finally, upon my agreement to "self report" this incident to OLR, you and Steve Means has a phone conversation with me on November 18, 2009. After learning of my decision to self report to OLR, you told me "Let me ASSURE you that DOJ has no intention of making any of this public."

I wanted to once again thank you for your personal and professional assurance.

Unfortunately, last week, this entire matter WAS disclosed to Ryan Foley, reporter with the Associated Press in MADISON. He contacted my courthouse late last week, indicating that he was told to "investigate why the DA got a special prosecutor" in the domestic abuse case involving S.V....disturbingly, he also indicated that he was informed that the DA had sent unwanted communication to the victim, and this resulted in Kratz resigning from the CVRB.

Mr. Foley called me this morning, telling me that the AP is doing a story on this matter, and he will be driving to Chilton to interview me at 11:30.

As you may know, the OLR investigation was closed with a specific finding of NO VIOLATION, and their records remain CONFIDENTIAL to preserve the reputational interests of lawyers when NO BASIS exists for a complaint. That serves little purpose when the entire facts of the complaint are LEAKED to the press.

My question for you is not subtle: Has a member of DOJ disclosed this matter to the Associated Press, despite your "assurances" to me on November 18th? If so, since there is NO criminal behavior involved, and NO ethics violation (as found by OLR), what is the "legitimate" purpose of such disclosure to the media?

Ryan Foley spoke with members of DOJ late last week on the decision to not file a lawsuit on the stem cell case. William Cosh was quoted on behalf of the Attorney General by Ryan Foley in his story Friday. Maybe that contact at the same time he learned of my case was a coincidence???

After almost a year, and after I had done EVERYTHING asked of me by your agency, and after assurances of non-disclosure, you may appreciate my angst regarding what public scrutiny I will now face as a result of this "LEAK".

Your response will be greatly appreciated.

RE: Kratz complaint disclosure

From: "Kratz, Ken" <ken.kratz@redacted>
To: "Potter, Kevin" <potter@redacted>
Date: Thu, 16 Sep 2010 08:02:08 -0500

Thanks for your response Kevin!

From: Potter, Kevin [mailto:potterk@redacted]
Sent: Wednesday, September 15, 2010 9:33 PM
To: Kratz, Ken
Subject: RE: Kratz complaint disclosure

Ken,

I can assure you that no one from this office, including Bill Cosh, disclosed this matter to Ryan Foley or anyone else in the news media. Mr. Cosh is our Public Relations Officer and deals with the press on a daily basis. It would not be unusual for him to speak with Mr. Foley regarding any number of matters involving the DOJ which might be newsworthy, so to infer that he might be Mr. Foley's source for this story on the basis of that contact is baseless speculation. Approximately 9 months have passed since our discussions regarding this matter. If this office was going to tip off the press, it could certainly have done so before now. From our perspective, there was no reason for DOJ to take any further steps as you addressed the concerns we had discussed and we assumed based upon our conversations that there would be no further occurrences of this nature. We do not have any interest in embarrassing you. We value the relationship we have had with you and your office and appreciated the steps you took to remedy this situation..

I should make you aware that we recently received a public records request for any records generated by DCI, or communications between you and this office related to this matter. It had been our intent to give you a heads up before responding, but the events of today prompted the release of some of the records (the email communications between you and me) this afternoon. Other records, including any reports generated by DCI will also be released in the future once they have been reviewed and redacted as necessary.

You are correct that we had no intention of affirmatively publicizing this incident - and did not do so. However, as you may recall from our conversations and as indicated in the email communications between us, if we received a public records request regarding this matter, we would have to comply with the law and release the records. Waiting to do so would only have extended this story and made matters worse.

I know this is difficult for you, but keep your head up.

Media Interview

From:

Daniel S [REDACTED]

To:

"Potter, Kevin" [REDACTED]

Cc:

ken.kratz@[REDACTED]

Date:

Thu, 16 Sep 2010 16:39:51 -0500

Mr. Potter,

As an author of numerous books, I find this story intriguing and begging for production. I am associated with several major producers and having advised them of the events in this case, all of them feel it worthy to present in a film medium.

With that in mind, please advise me if you will be available for an initial interview, so that your side of these unfortunate events can be brought out. I cannot fathom why this person has not been impeached from office for such horrendous messages, sent to a vulnerable woman and victim of a crime which certainly affected her cognition.

Also, I will be requesting an interview with the defendant in that case, to see if the DA/Victim complicity will be an issue for post-conviction relief, since it obviously wasn't disclosed to the defense.

If you want me to go through a "media" contact, please advise me of that person's contact info. If you choose to refuse the interview, please let me know now and I will approach this story differently, but it will be told. This is appalling.

daniel s [REDACTED]