



STOP ABUSIVE AND VIOLENT ENVIRONMENTS

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April 4, 2011

Carletta M. Bassano, District Attorney
Prosecutorial District No. 7
70 State Street
Ellsworth, ME 04605

RE: REQUEST FOR DISMISSAL OF STATE OF MAINE V. VLADEK FILLER
Docket Number: CR-07-135

Dear District Attorney Bassano:

Stop Abusive and Violent Environments (SAVE), a national victim advocacy organization, is writing to request the immediate dismissal of the case of State of Maine v. Vladek Filler. For the reasons enumerated below, this case represents a gross miscarriage of justice that threatens to undermine public respect for law and allow a known child abuser to regain custody of two minor children.

This case needs to be promptly dismissed for the following seven reasons:

1. The allegation of marital rape does not meet the probable-cause standard

The Maine Rules of Professional Conduct require that “the prosecutor shall refrain from prosecuting a criminal charge that the prosecutor knows is not supported by probable cause.”¹ The allegation of marital anal rape does not meet this standard for these reasons:

- a. The allegation does not meet the “not being inherently incredible” standard. Anal intercourse requires one party to bend forward sharply at the waist. But the alleged incident occurred in a small laundry area with only a 24-inch clearance between an immovable dryer.
- b. One hour after the alleged incident, the accuser’s children did not discern anything unusual about the accuser’s demeanor, condition of her clothes, or physical status.
- c. A medical examination of the accuser did not identify any cuts, bruises, abrasions, or scars associated with the alleged assault.
- d. The accuser refused to allow the physician to perform a rape kit evaluation.
- e. Forensic analyses of the locale of the alleged incident did not identify any evidence of rape.
- f. The accuser had a clear motive to fabricate the allegation – to gain custody of her children.

¹ Maine Rules of Professional Conduct. 3.8(a)

- g. According to a December 3, 2009 ruling of the Ellsworth District Court, Docket number ELL-FM-07-201, Mrs. Filler was “impeached enough so that the evidence of forced anal sex does not achieve a preponderance.”

2. Ligia Filler is a proven child abuser

In its December 3, 2009 decision, the Ellsworth District Court documented repeated instances of Ligia Filler’s abuse of her children, concluding, “The children were victims of violence from their mother,” including hitting one child “with spatulas and spoons, leaving bruises.” Another child “sees himself as his mother’s victim on many levels,” according to the District Court.

One child testified about her, “my mother would hit everyone in the house. She was a terror to everybody.”

3. Ligia Filler is a documented false accuser

The Ellsworth District Court ruled, “The most serious impeachment of Mrs. Filler came from a police tape recording made April 24, 2007, in which she accused Mr. Filler of molesting the children. That allegation was false and known to be false. She has shown a capacity to manufacture claims.”

4. The Maine Department of Health and Human Services sided with the defendant in a concurrent child custody dispute.

In its December 3, 2009 decision, the Ellsworth District Court ruled that the “award of primary residence to Mr. Filler is necessary for the children’s protection,” noting that during one visit arranged by the Guardian Ad Litem, one child “refused to interact” with his mother.

5. Continued prosecution of the case is likely to harm the children

The Ellsworth District Court also notes how the State’s mishandling of this case has caused emotional damage to the youngest child:

“The incident on April 24th, from [youngest child’s name] perspective, must have been terrifying. His mother was screaming and yelling, and it went on and on and on. A strange man took him away from her and ultimately give him to another stranger (female). For months thereafter he was unsettled, with only occasional contacts with his parents. Everything he relied on was disrupted. Emotional damage from the period birth through the summer of 2007 seems extremely probable.”

Continued prosecution of the case will cause more psychological upheaval and trauma to the two minor children.

6. The prosecution of the case has become so tainted with bias that justice can no longer prevail.

In February of this year, it was announced that ADA Mary Kellett would continue to be involved in the case of State of Maine v. Vladek Filler. The case has already been tainted with numerous instances of prosecutorial misconduct.

On September 9, 2010, the Maine Supreme Judicial Court ruled that the Vladek Filler had been unfairly prejudiced by the prosecutor's actions. The Supreme Court decision states that ADA Mary Kellett "had improperly encouraged the jury to use the absence of evidence regarding the marriage ending and a child custody dispute – evidence that had been excluded based on the State's objection – as a reason to reject Filler's defense."²

SAVE's Grievance Complaint to the Board of Overseers of the Bar³ documents other forms of prosecutorial misconduct:

- a. Willful obstruction of the defense attorney's access to evidence.
- b. Failure of the case to meet minimum standards of probable-cause
- c. Making of a false statement of fact to a tribunal

ADA Kellett has made false statements to media representatives. "It was sexual punishment, so it was very hard for her to talk about. It was punitive and angry," she told a reporter for the *Bangor Daily News* following the 2009 trial.⁴ Such statements are not only inflammatory, they have no basis in fact.

More recently, we have learned that certain videotapes of the Ligia Filler interrogation have been destroyed. The destruction of these tapes follows repeated discovery requests by defense attorney Daniel Pileggi and a Court Order issued by Judge Anderson on June 3, 2008. These tapes, which may contain important exculpatory evidence, were destroyed while under the care and custody of ADA Mary Kellett.

7. The continued prosecution of this case squanders scarce resources and re-victimizes the true victims of violent crime.

Prosecutors play a central role in society's on-going effort to thwart crime and bring criminals to justice.

The State has now pursued the case against Vladek Filler for four years, with the outcome still highly uncertain. Regardless of its outcome, the case has consumed an extraordinary level of prosecutorial resources, resources that would have been better applied to criminal allegations with incontrovertible evidence of probable-cause.

² Maine Supreme Judicial Court. State of Maine v. Vladek Filler. September 9, 2010. http://www.courts.state.me.us/court_info/opinions/2010%20documents/10me90fi.pdf

³ <http://www.saveservices.org/wp-content/uploads/COMPLA1.pdf>

⁴ Trotter B. Jury finds ex-Maine man guilty of assaulting wife. *Bangor Daily News*. January 16, 2009.

The continued prosecution of State of Maine v. Vladek Filler diverts resources from, and hence re-victimizes the true victims of violent crime in Prosecutorial District No. 7.

Case is Attracting National and International Attention

This case is considered to involve legal principles of broad import and is now attracting national and international media attention.^{5,6,7,8,9,10}

T.J. Ward, a lead investigator in the Natalee Holloway case in Aruba, has investigated Ligia Filler's allegations and concluded her allegations were a "fabrication" and believes continued prosecution of Vladek Filler would be "malicious."¹¹ One legal analysis characterized ADA Kellett's conduct in this case as "morally grotesque."¹²

In the words of court-appointed attorney Neil Fishman, the trial of Vladek Filler has been so tainted with prosecutorial errors and violations of constitutional protections as to resemble a "Salem Witch Trial."

Vladek Filler is an innocent man. The accusations against him are scurrilous. ADA Mary Kellett's repeated instances of prosecutorial misconduct are an affront to legal ethics. The continued prosecution of the case represents the State becoming an enabler of a known child abuser.

On these grounds, we are requesting that you speedily dismiss all allegations against Mr. Vladek Filler.

Sincerely,

Stop Abusive and Violent Environments

cc: Paul LePage, Governor
Hancock County Superior Court
Jud Knox, Chairman, Board of Overseers of the Bar
Attorney General William J. Schneider

⁵ Carey Roberts. In Maine, It Doesn't Pay to be a Man. *Renew America*. February 1, 2010.

⁶ Robert Franklin. Vladek Filler Gets a New Trial. *Fathers and Families*. September 13, 2010.

⁷ T.J. Ward. Cry Rape! The Plague of False Accusations. Radio interview. March 15, 2011.

⁸ False rape claims exposed on AVoiceforMen Radio with T.J. Ward. *Current.com*. March 10, 2011.

⁹ Robert Franklin. Vladek Filler's New Trial Scheduled for May. *Fathers and Families*. March 25, 2011.

¹⁰ Robert Franklin. State Bar Ethics Complaint Against Vladek Filler's Prosecutor, Mary Kellett. *Fathers and Families*. March 30, 2011.

¹¹ False rape claims exposed on AVoiceforMen Radio with T.J. Ward. *Current.com*. March 10, 2011.

¹² Prosecutor's Conduct in Vladek Filler Case both Heinous and Unpardonable. The False Rape Society. March 29, 2011. <http://falserapesociety.blogspot.com/2011/03/prosecutors-conduct-in-vladek-filler.html>