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### Bar Association Official 'Outraged' by Chancellor's Criticism of Rape Ruling

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Certain members of the Board of Governors of the Philadelphia Bar Association aren't too happy with a recent statement by its chancellor denouncing a ruling by a local municipal court judge in a rape case, a source familiar with the situation has said.

At least one member has come out publicly against Chancellor Jane Leslie Dalton's comments, which were issued Tuesday. Dalton said Municipal Court Judge Teresa Carr Deni's ruling in a rape case that brought charges against a man who allegedly raped a prostitute at gunpoint down from rape to "theft of services" was a "miscarriage of justice."

Assistant treasurer of the bar association Jeffrey M. Lindy said Wednesday that Dalton didn't go against the association's bylaws by issuing the statement without approval from the board of governors -- but that didn't make it right in his eyes.

He said he was "outraged beyond words" by the substance of Dalton's response.

"Her comments have perhaps undone what the bar association has struggled to do for decades," he said of its efforts to uphold judicial independence.

Dalton said in an interview Wednesday that while she agrees that the bar strives to uphold judicial independence, her critics might be working off a skewed definition of the term.

Judicial independence, she said, is about the rule of law and a judge's ability to follow that rule of law no matter how unpopular. Dalton said that after reading the transcript in the case, which other board members didn't get a chance to do, it was clear that Deni was ruling based on personal beliefs and not the rule of law.

A. Michael Pratt, chancellor-elect of the Philadelphia Bar Association, said he was "strongly" in agreement with Dalton's decision to issue the statement.

Just because the bar supports judicial independence, "it does not mean that we never criticize a judge that makes rulings outside the rule of law," Pratt said.

He said it was the bar's obligation to speak out and to stand up for justice and equality.

While Lindy said he hasn't read the transcript and knows very little about the case, he said he would draw a line on speaking out against any ruling unless it was a "clear and manifest" violation of constitutional law.

"This is an attack not just on Judge Deni," Lindy said. "This is an attack on judicial independence."

Lindy said Dalton is really a decent person, but this isn't what a lawyer should do.

He said if he is alone in his opinion among members of the board of governors, so be it.

Thousands of people have probably read Dalton's comments at this point, Lindy said, and he isn't sure what he could do to combat the message. He said most people would think she is speaking for the entire bar and the board of governors.

Dalton said that while she doesn't speak for all 13,000 members of the association, the chancellor is designated under the bylaws as a spokesperson for the group and does not need board approval to make public statements.

Several members of the board of governors said they didn't remember Dalton mentioning the case at their monthly meeting on Oct. 25. They said, however, that with meetings held only once a month, the chancellor has to make decisions without the board if a time-sensitive issue arises before the next meeting.

Board member Michael B. Hayes said he hadn't heard of any dissent in the ranks among other members. From his personal view and not from his role as a board member, Hayes said the comment was a surprise to him given the bar's push in recent years for judicial independence.

"It is not often that the Philadelphia Bar Association comments publicly on a judge's ruling in a legal proceeding," Dalton said in her statement. "Indeed, the association has, as part of its mission, the preservation of a free and independent judiciary. This issue goes to the marrow of our existence as a free and independent people."

Deni's ruling, however, "compels" the bar to speak out, she said.

The letter pointed out that the ruling was issued just after the bar's commission recommended retention of Deni in the Nov. 6 election. Although the letter did not direct voters to vote against Deni, it did state that it was up to the individual voter whether to vote for her retention.

"As chancellor, a lawyer and a human being, I am personally offended by this unforgivable miscarriage of justice," Dalton said in the letter. "The victim has been brutalized twice in this case: first by the assailants, and now by the court." George Bochetto of Bochetto & Lentz represents Deni.

"Judge Deni made her decision based upon the evidence presented, not upon some newspaper account of the story," Bochetto said Tuesday. "Judge Deni finds Ms. Dalton's comments regrettable."

In an interview Tuesday, Dalton said she doesn't have the authority to undo the recommendation of the bar's commission.

"I also don't think one decision should be determinative," she said.

A number of people, however, had raised concerns to Dalton about Deni's decision, and she felt she should at least look at the transcripts of the case.

"Judge Deni's belief that because the victim had originally intended to have sex for money and decided not to because she didn't get paid posits that a woman cannot change her mind about having sex or withdraw her consent to do so, regardless of the circumstances," Dalton said in the letter. "We cannot imagine any circumstances more violent or coercive than having sex with four men at gunpoint."

Dalton said she thinks she would have issued her statement regardless of whether there was an upcoming retention election.

According to reports in the *Philadelphia Daily News*, the victim made arrangements through the Web site Craigslist to meet the defendant for sex, and she was to be paid \$150 for one hour. When she arrived, she agreed to have sex with a friend of the defendant for an additional \$100. The friend showed up with no money, a gun was pulled and more men arrived, according to the report.

Deni told the *Daily News* a case like this "minimizes true rape cases."

"Did she tell you she had another client before she went to report it?" Deni asked the paper.

Deni said she knew she would "get killed on this" in terms of public outcry.

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