

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

S.V.

Plaintiff,

vs.

Case No.: 10-919

KENNETH KRATZ

Defendant.

DEFENDANT'S MOTION TO DISMISS AND MOTION FOR SUMMARY JUDGMENT

NOW COMES the Defendant, Kenneth Kratz, individually, by his attorneys, Hammett, Bellin & Oswald, LLC, and for his Motion to Dismiss and Motion for Summary Judgment states as follows:

1. Plaintiff's Complaint fails to identify any constitutional rights that were violated by the actions of the Defendant, and therefore, fails to state a claim on which relief can be granted.
2. Plaintiff's Complaint fails to identify any rights or privileges that were violated by the actions of the Defendant pursuant to Wisconsin law, and therefore, fails to state a claim on which relief can be granted.
3. Plaintiff's Complaint fails to clearly state what damages, if any, she is seeking and what damages were sustained by her as a result of Defendant's actions, and therefore, fails to state a claim on which relief can be granted.
4. Defendant is entitled to absolute immunity with respect to all allegations in the Complaint because he was acting as Calumet County District Attorney at all times therein.
5. In the alternative, Defendant is entitled to qualified immunity with respect to all allegations in the Complaint because he was acting on behalf of the State at all times therein and Plaintiff identified no clearly established constitutional right that was violated.

WHEREFORE, Defendant requests the following relief:

1. Dismissal of Plaintiff's Complaint in its entirety pursuant to Federal Rule of Civil Procedure 12(b)(6).
2. Summary Judgment pursuant to Federal Rule of Civil Procedure 56 granting dismissal of Plaintiff's Complaint based on the fact that the

Defendant is entitled to absolute and qualified immunity with respect to all allegations therein.

3. All costs and fees incurred in this action.
4. Such other and further relief as the Court deems just and equitable under circumstances.

Dated this 7th day of April, 2011.

HAMMETT, BELLIN & OSWALD L.L.C.

/s/ Robert E. Bellin, Jr.

ROBERT E. BELLIN, JR.

Attorney for Defendant

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CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2011, I electronically filed this **DEFENDANT'S MOTION TO DISMISS AND MOTION FOR SUMMARY JUDGMENT with the** Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

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