

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

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S.V.

Plaintiff,

vs.

Case No.: 10-919

KENNETH KRATZ

Defendant.

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**DECLARATION OF DEFENDANT, KENNETH KRATZ**

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1. That I am the Defendant in the above-captioned action and have personal knowledge of the matters stated herein and could competently testify about them if called upon to do so at trial.
2. That I met with the Plaintiff on three occasions in October 2009 as part of my duties as Calumet County District Attorney for purposes of preparing my case against Plaintiff's ex-boyfriend, S.K. During the first two meetings a female victim/witness specialist was also present, and S.V. was informed of the various individuals and agencies that could assist her.
3. That during the third of these meetings, on October 20, 2009, Plaintiff indicated, among other things, that she has low self-esteem.
4. That I was surprised at her claim that she had low self-esteem because she presented herself well in court and during our meetings.
5. That during these meetings, I also asked Plaintiff many questions about the facts and circumstances of the case, as well as her preferences and feelings as the victim of the crime as to whether the case was prosecuted as a felony or misdemeanor. At no time during any of these meetings did I have physical

contact with Plaintiff, make lewd remarks or gestures, or even ask her for a date. The meetings were strictly for purposes of gathering information in my role as prosecutor.

6. That during my meetings with Plaintiff, she provided me with her cell phone number for the purpose of contacting her outside our meetings. I did not provide her number to anyone else.
7. That after our meeting on October 20, 2009, I sent a series of text messages to Plaintiff. My initial intention in sending the text messages was to offer further assistance in regard to the case and to try to build her up and make her feel better about the current circumstances, especially in light of the fact that she had claimed to have very low self-esteem.
8. That I do not recall the specific times when Plaintiff sent each of her responses to my texts. I also do not recall whether Plaintiff sent additional text messages that are not listed in her Exhibit A. Exhibit A is, however, accurate to the best of my memory, and is accurate in the sense that I sent 30 text messages to Plaintiff over the course of three days and she sent me a minimum of 23 responses, also over the course of three days.
9. That Plaintiff responded to my text messages on all three days. At no time, even when I asked her, did she tell me she wanted me to stop texting her, and I had no idea, based on the responsive text messages I was receiving, that Plaintiff was uncomfortable or wished for our contact to stop.

10. That on October 21, 2009, at 12:43pm, I asked, “do you want to stop right know (sic) before any issues?” Plaintiff responded, “Dono.”
11. That on October 21, 2009, at 1:35pm, I stated, “I need direction from you.” I again asked, “or you think a man twice your age is creepy so stop.” Plaintiff replied, “I have to think about that.”
12. In response to the above exchange, I stated, “Ok. No problem. Either way I think you are very nice. I am very smart, but know this is ALL up to you...” Plaintiff responded saying, “Lol.” Based on these responses, it was not at all clear to me that Plaintiff wanted me to stop contacting her. In fact, because Plaintiff responded promptly to each of my texts and did not tell me to stop contacting her, even when I asked if that’s what she wanted, I believed Plaintiff wanted to continue communicating with me.
13. That I did not find out Plaintiff wanted our contact to stop until several days after she contacted the Kaukauna Police Department. I stopped contacting her of my own accord several days before anyone informed me that Plaintiff had reported my text messages to the Kaukauna Police Department, and my last text message to her stated, “When the case is over, if you change your mind and want to meet for a drink, please tell me. Otherwise I will respect your desire to be left along.”
14. That had Plaintiff told me sooner that she did not want to text me anymore and was not interested in a relationship, I would have stopped texting her; Plaintiff, however, continued our text conversation for days with no indication that it was making her uneasy or that she wanted it to stop. Plaintiff never suggested she was offended by my text messages in any way.

15. That I never, either by text message or by any other means, threatened to stop prosecuting the case against Plaintiff's boyfriend if she refused to go on a date or otherwise pursue a relationship with me. In fact, I tried to make it clear to Plaintiff that the prosecution of S.K.'s case would be concluded and conducted to the best of my abilities no matter what.
16. That I directly referenced the case against Plaintiff's ex-boyfriend twice during our text conversation. On October 21, 2009, at 2:57pm, I stated, "It would go slow enough for Shannon's case to get done." And on October 22, 2009, at 3:25pm, I stated, "When the case is over, if you change your mind and want to meet for a drink, please tell me. Otherwise I will respect you desire to be left alone." I never said anything to suggest or even hint that I would stop prosecuting the case if Plaintiff told me to leave her alone. On the contrary, much of what I said to Plaintiff during our text conversation was intended to assure her that the case would proceed regardless of her response and that it was entirely up to her whether to remain in contact with me.
17. That after October 20, 2009, the only contact I had with Plaintiff was by text message, and the only text messages I sent her are those listed in Exhibit A. I did not make any phone calls to her, did not go to her place of residence, did not make any attempt to have physical contact with her, did not have face-to-face contact with her, (nor ask to have face-to-face contact with her), and did not attempt to write her or harass her in any other way.
18. That I did not believe Plaintiff to be under my control in any way such that she would be required to pursue a relationship with me. I also believed Plaintiff

clearly understood that she was under no obligation whatsoever to continue texting me or in any other way to pursue a relationship with me.

19. That I did not believe my actions violated any constitutional rights of the Plaintiff, and I had no notice that text conversation could be any constitutional right deprivation.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 29<sup>th</sup> day of June, 2011.

/s/ Kenneth Kratz  
Kenneth Kratz, Defendant