



Carol DeCoursey <cdecoursey@gmail.com>

SMY 2000341 Clarkson (DeCoursey)

1 message

Sarra Yamin <syamin@osbar.org>
To: "cdecoursey@gmail.com" <cdecoursey@gmail.com>

Mon, Mar 23, 2020 at 11:07 AM

Dear Carol DeCoursey,

The Oregon State Bar Client Assistance Office (CAO) has received your correspondence expressing concerns about the conduct of Paige Clarkson, the Marion County District Attorney. The CAO is responsible for reviewing concerns regarding Oregon lawyers. Under Oregon State Bar Rule of Procedure 2.5 and as resources permit, CAO determines the manner and extent of review required to decide whether there is sufficient evidence to support a reasonable belief that lawyer misconduct may have occurred warranting a referral to Oregon State Bar Disciplinary Counsel. Misconduct means a violation of the rules of professional conduct and applicable statutes that govern lawyer conduct in Oregon.

You expressed concerns that Ms. Clarkson has prosecuted Kenneth Ketchem based on "tampered evidence", and has offered him a plea deal, inducing him to commit perjury by pleading guilty, though he has thus far maintained his innocence. I conclude that there is no sufficient basis to warrant a referral to Disciplinary Counsel.

The Oregon Rules of Professional Conduct prohibit a district attorney from pursuing a criminal charge that they know is unsupported by probable cause. While the information you outline may reduce the strength of the State's case against Mr. Ketchem, it does not necessarily negate probable cause. It is not uncommon for a defendant to offer a contradictory version of events to the one offered by the prosecution, and sometimes a trial is required to assess the strength of the contradictory evidence. A prosecutor is entitled to rely on the information provided by witnesses and law enforcement when determining whether probable cause exists.

It is similarly common for settlement offers to be made to (and accepted by) individuals who have previously professed innocence. Sometimes defendants profess innocence, though they in fact committed the crime charged. As such, the fact that a defendant has previously denied the charge against them, is not a sufficient basis to support a reasonable belief that the district attorney has engaged in misconduct by offering a plea to, or accepting a plea from, such a defendant.

The other concerns you raise relate to the decisions of Judge Thomas Hart in the same case. The jurisdiction of the Client Assistance Office is limited to reviewing allegations that an Oregon lawyer has violated the disciplinary rules governing lawyer conduct. We have no authority over the conduct of judges acting within the scope of their judicial duties. You may wish to submit your concerns to the Commission on Judicial Fitness and Disability (CJFD) at PO Box 90398, Portland, OR 97290. For information about the CJFD, visit their website at: <https://www.courts.oregon.gov/programs/cjfd/Pages/default.aspx>.

Because we find no professional misconduct, we will take no further action on this matter. If you disagree with this disposition, you may have the matter reviewed by General Counsel, provided we receive your request for review in writing no later than April 13, 2020. The decision of General Counsel is final.

Respectfully,



Sarra Yamin

Assistant General Counsel and CAO Attorney

503-431-6366

syamin@osbar.org

cc w/ attachments: Paige Clarkson

Email submissions to cao@osbar.org Use subject line SMY 2000341

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