
From: Denise Ford <dford@co.kitsap.wa.us>
Sent: Wednesday, August 23, 2017 11:49 AM
To: Kelly Eisenhood; Jennifer Cooper; Lesley Hetzler
Subject: Confidential Memo - Do Not Disseminate

Confidential Memo - Do Not Disseminate
May Contain Non-Disclosable Attorney Work Product (RCW 42.56.290).

Decline to Prosecute Notice

TO: Bainbridge Island PD, Email: Kelly Eisenhood, Jennifer Cooper & Lesley Hetzler
FROM: Alexander C. Takos, WSBA No. 47845, Deputy Prosecuting Attorney
REPLY TO: Bainbridge Island Municipal Court Division
DATE: August 21, 2017
SUSPECT: Richard L. Rynearson, Iii, 01/11/1974
217 Shepard Way
Bainbridge Island, Wa 98110

Crime Classification – Gross Misdemeanor/Misdemeanor
Offense Date – February 14, 2017

YOUR REPORT NUMBER – 2017BI000145

REFERRED BY – CAMERON A. LEWIS, 829

Seized personal property? None
Seized contraband? None
Rape kit? None
Seized firearm? None

Reason(s) for Decline to Prosecute

Our decline reason – Insufficient Evidence-Civil Dispute

Suspect was referred for review of cyberstalking charges. For the following reasons, we are declining to file charges at this time.

What is unique about this referral is that the content of the electronic communication was political in nature. There were no threats made to the victim, and the suspect did not use lewd or lascivious, indecent, or obscene words, images, or language. Because of this, it would be very difficult to prove any criminal intent – namely, that the suspect intended to harass, intimidate, torment, or embarrass the victim beyond a reasonable doubt. The suspect’s intent arguably was to advance his own political agenda.

Another unique fact is that the majority of the communication occurred on Facebook. If this were a face-to-face conversation, it most certainly would not be criminal. A person could ignore the in-person political banter and choose not to engage, or simply stay away from the speaker entirely. Similarly, the victim could simply ignore the posts online, or block or remove the suspect as a friend on Facebook.

Next, the cyberstalking statute's constitutionality is being challenged in Federal District Court on the grounds that it violates the First Amendment. Again, what's unique about this referral is that it involved arguably unwanted political speech online, which typically is given greater constitutional protection under the law.

Finally, the law provides a civil remedy for situations such as this in the form of a civil protection order. As of now, the victim has a permanent protection order in place that prohibits the suspect from contacting him. This is the proper remedy.

Note—After speaking with the Deputy Prosecutor who made the decision to decline to prosecute, you may appeal the decline decision to Felony and Juvenile Division Chief Chad Enright, District and Municipal Division Chief Kevin Kelly, or Prosecuting Attorney Tina Robinson

Decline letter to victim? Yes

Prosecutor's File Number—17-227675-1

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Thank you,

Denise Ford

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