

A Rowlandgate Honorium-- DCF "documents"

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Thar' She Whistleblows!

A lawyer is fired after dishing the goods on an assistant attorney general. A young girl gets caught in the crossfire.

by Carole Bass – December 23, 2004

NICK LACY PHOTO

Mary Ann Mierzwa: Fired but not silenced.

This is a tale of two child-protection lawyers, a troubled girl, and a state government that wants to police itself--in secret.

The story begins with an adolescent girl. It is April 2004. The state Department of Children and Families has her in temporary custody, because of suspected abuse or neglect. It's time to send her home, and a Juvenile Court judge orders DCF to take certain steps to ensure that she remains safe.

So far, so good. But then...

The assistant attorney general who represents DCF secretly doctors the court order, literally crossing out the judge's instructions aimed at making sure DCF does its job.

The court services officer, the lawyer for Juvenile Court, finds out about the deception. She reports it to the judge and to her supervisors.

Fast-forward to the holiday season. One lawyer, labeled a "rogue employee," gets the pink slip and a lump of coal. The other continues her work on behalf of Connecticut's troubled children.

But wait. There's a run in the Christmas stocking.

The brave whistleblower is the one who got fired. And the lawyer who changed the court order still has a job with the attorney general.

That is the story told by Mary Ann Mierzwa, who was fired from her job as a court services officer last month. Though out of a job, Mierzwa finds herself playing two new roles: whistleblower and plaintiff in a federal lawsuit that accuses state judicial officials of violating her constitutional rights.

Attorney General Richard Blumenthal says that his employee denies changing the court order and his office's investigation has turned up no evidence of impropriety so far; Blumenthal will not say what the investigation has consisted of. A Judicial Branch spokeswoman declines to comment.

Mierzwa's story differs from the typical whistleblower tale of bosses covering up wrongdoing and punishing the accuser in retaliation.

One departure from the norm is the nature of the alleged wrongdoing. Accusations of financial favoritism are almost routine in Connecticut government. But changing a court order behind a judge's back is genuinely shocking.

Second, Mierzwa's complaint involves not only her Judicial Branch superiors, but an employee in a separate state agency: the assistant attorney general. And what agency is charged with investigating whistleblower complaints? Why, it's the attorney general's office.

Blumenthal says he has farmed the whistleblower complaint out to the state Commission on Human Rights and Opportunities, "because we believe there ought to be an independent investigation" of the alleged retaliation against Mierzwa. Separately, Blumenthal's office is investigating "whether there were any improper changes to the [court] order." The assistant AG denies changing the order, Blumenthal says.

A third twist: the legally mandated secrecy that cloaks juvenile court proceedings.

Under state law, juvenile courtrooms are closed to the public. Records are sealed. Lawyers aren't allowed to talk about cases. This strict confidentiality is designed to protect children and families in juvenile court--not the lawyers who practice there.

But in this case, the confidentiality statute makes it difficult for anyone outside state government to find out what the assistant attorney

general did or did not do. Two lawyers for the adolescent girl, plus her father's attorney—all of whom could shed some light on what happened—say they cannot comment without violating the statute. The lawyer for the girl's mother, whom Mierzwa credits with first spotting the doctored court order, didn't return Advocate phone calls.

Maybe they're trying to avoid a fate similar to Mierzwa's. In firing her on Nov. 1, the Judicial Branch accused her of breaking the confidentiality law as well as disobeying orders. Her transgression: showing her private attorney a copy of the doctored court order. Though Mierzwa removed names and other identifying information, an internal Judicial Branch memo concluded that she had no right to show the order to her lawyer.

So the only public account of what happened in Hartford Juvenile Court last April 16 is Mierzwa's.

Here's her version, drawn from the federal lawsuit and an interview in her lawyer's West Hartford office:

As court services officer—a job she held for six years—Mierzwa convened a meeting of lawyers involved in the adolescent girl's child-protection case. They needed to draw up a series of "specific steps," conditions that would be part of a judge's order sending the girl home.

"This is just the key ingredient in a case," Mierzwa says. "And that's a really dicey age. So I was very particular" about the steps.

Mierzwa proposed requiring follow-up by the Department of Children and Families. She says all the lawyers all agreed—except for the assistant attorney general representing DCF. After a heated conference did not produce consensus, Mierzwa took the disagreement to the judge.

After a hearing, the judge "essentially ordered what I had drafted," she says.

Later that day, the lawyer for the girl's mother came to Mierzwa. The lawyer said that after the hearing, the assistant AG had taken the court order from the courtroom clerk, volunteering to make copies. When the assistant AG distributed the copies, the mother's lawyer "came to me and said, 'This is not the judge's order,'" Mierzwa recalls.

The changes, she says, "radically altered the landscape." In addition to the child-protection case in which Mierzwa was involved, the girl had a parallel case on the delinquency side of juvenile court. The judge ordered DCF to monitor the girl's compliance in the delinquency case. The altered document, Mierzwa says, shifted that burden from DCF to the girl's mother.

The judge ordered DCF to take three other steps. DCF has to supervise the transition from one case-worker to another, help with a treatment evaluation necessary to the girl's delinquency case, and make all referrals seen as crucial to the girl's well-being within two weeks, rather than let her languish. These steps were essential, Mierzwa believed, because the girl is "at such a precarious time in her life." All three were crossed out.

"I worry more than I have to, so I put a heavy burden" on DCF, Mierzwa acknowledges. "But I think it was warranted."

What happened next, by Mierzwa's account, was even stranger. She talked to the judge. At a meeting in his chambers with all the lawyers involved, the judge told Mierzwa to redraft the original order. That's all.

"I continued to raise what I thought was a gross impropriety," Mierzwa says: "How was it going to be addressed?"

After about six weeks, her immediate supervisor made it clear that the bigger bosses wanted to drop the subject, Mierzwa says. That's when she called a private lawyer. She wanted to see justice done. And she worried that if she did not report the alleged misconduct elsewhere, she might face disciplinary action under the lawyers' code of professional ethics.

When Judicial Branch higher-ups heard that she had consulted a lawyer, they "embarked on a course of conduct to stifle and chill [Mierzwa's] right to counsel, freedom of speech, freedom of association, and right to redress grievances," her suit claims.

In August, after a disciplinary hearing from which her attorney was barred, Mierzwa was suspended with pay. After a second disciplinary hearing came her termination.

An internal Judicial Branch memo, written after the second disciplinary hearing, calls Mierzwa a "rogue employee" who "simply does not accept the authority of her supervisors."

Evidently, the author of the October memo did not read Mierzwa's last performance appraisal.

Written in April, just two weeks after the Case of the Doctored Court Order began, the appraisal rated Mierzwa "very good" in six categories and "good" in the seventh (attendance).

"Mary Ann conducts herself very professionally in all aspects of her job," her supervisor wrote. "...Mary Ann has very good working relationships with members of agencies that work within as well as outside the court.

Well, with most people who work in the court. In a clear reference to the assistant attorney general, Mierzwa's supervisor wrote, "We have started to address a situation where the behavior of a colleague from an outside agency...is difficult toward Mary Ann and others."

Difficult indeed.

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