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Supreme Court of Wisconsin

[SEAL] **16 EAST STATE CAPITOL**
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Annette Kingsland Ziegler	Hon. Randy R. Koschnick
Chief Justice	Director of State Courts
Ann Walsh Bradley	Sheila T. Reiff
Patience Drake Roggensack	Clerk of Supreme Court
Rebecca Grassi Bradley	
Rebecca Frank Dallett	
Brian Hagedorn	
Jill J. Karofsky	
Justices	

October 18, 2021

Ms. Camille Walters
531 Summit Drive
West Bend, WI 53095

Re: Complaint against OLR and its director

Dear Ms. Walters:

Your correspondence asserting a complaint against the Office of Lawyer Regulation (OLR) and its director, Keith Sellen, with respect to their handling of grievances against District Attorney Mark Bensen has been forwarded, pursuant to SCR 22.25(8), to the Supreme Court. Your complaint and the supporting materials have been reviewed and it has been concluded there is no basis for further investigation of your allegations.

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Accordingly, no further action will be taken regarding this complaint.

Sincerely yours,

/s/ Annette Kingsland Ziegler
Annette Kingsland Ziegler
Chief Justice

AKZ:man

cc: Timothy Samuelson

[SEAL] **Supreme Court of Wisconsin**

OFFICE OF LAWYER REGULATION
110 EAST MAIN STREET, SUITE 315
P.O. Box 1648
MADISON, WI 53701-1648
www.wicourts.gov/olr

Central Intake

Direct Telephone: (608) 267-7274 - Ext. 1
Direct Toll Free: (877) 315-6941- Ext. 1
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olrintake@wicourts.gov

DIRECTOR

KEITH L. SELLEN

**DIRECTOR OF
CENTRAL INTAKE**

JULIE M. SPOKE

INVESTIGATORS:

JONATHAN ZEISSER
CATHE J. HAHN
BETH M. KUGLER
KORI ANDERSON
ANNE BLOOD
MICHAEL C. SHULL
KATHRYN GALAROWICZ
JOEL R. WITT
ALICIA BROWN

July 26, 2021

PERSONAL AND CONFIDENTIAL

Ms. Camille Walters
531 Summit Drive
West Bend, WI 53095

Re: Inquiry Regarding Atty. Mark D. Bensen

Dear Ms. Walters:

I received your request for review of the closure of your grievance, in which you expressed concern Attorney

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Benson suppressed evidence in the case against the person who killed your son. I am sorry for your loss.

The information you provided does not support an allegation of professional misconduct; therefore, I affirm closure. The Rules of Professional Conduct for Attorneys do not require a prosecutor to prosecute any particular case. Also, the rules provide a prosecutor broad discretion regarding what evidence to pursue, when to file, and what findings and sentence to seek.

The information shows two criminal complaints were filed: the first identified a blood draw at 2:25 a.m.; the second (amended) complaint also identified a blood draw at 1:05 a.m. The complaints reported information provided by Officer Justin Pesch and Detective Penny Schmidt. A criminal complaint is not required to identify all the evidence in the case; as a result, omission of the 1:05 a.m. draw does not imply that information had been withheld. Moreover, a prosecutor is entitled to rely on statements of law enforcement unless known at the time to be false.

I know you are concerned about the timeliness of the prosecution and the strategies Attorney Benson used. In response to your grievance, he explained how he exercised his discretion. The strategies he used are reasonable and accomplished the desired results,

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obtaining a conviction for a serious offense and a lengthy prison sentence.

Very truly yours,

/s/ Keith L. Sellen
Keith L. Sellen
Director

KLS:jmb

cc: Attorney Mark D. Bensen

[SEAL] **Supreme Court of Wisconsin**

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JOEL R. WITT

ALICIA BROWN

July 15, 2021

PERSONAL AND CONFIDENTIAL

Ms. Camille Walters
531 Summit Drive
West Bend, WI 53095

Re: Inquiry Regarding Atty. Mark D. Bensen

Dear Ms. Walters:

Based on a preliminary intake evaluation of your inquiry, the Office of Lawyer Regulation has determined

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that there is an insufficient basis to proceed. District Attorney Bensen is afforded significant discretion when deciding whether to issue criminal charges, what charges to issue and when to issue them. I have enclosed a copy of Atty. Bensen's written response to your grievance. There is insufficient evidence to support an allegation of ethical misconduct under the Wisconsin Supreme Court Rules. Therefore, the matter will not be forwarded for formal investigation, and will be closed at this time.

The Supreme Court Rules provide that you may request review of the decision to close this matter. Any such request must be in writing, and must be received by the Director within 30 days of the date of this letter. Timely requests for an extension may be granted for good cause shown. Following receipt of a proper request, the Director will review the matter and may affirm the closure or refer the grievance to staff for further evaluation. Pursuant to SCR 22.02(4), the Director's decision is final, if you request review, you will receive written notice of the Director's decision.

Pursuant to SCR 22.40(1), this agency must keep requests for investigation confidential. Our file and all records pertaining to this matter will be expunged after a period of three years. Should you wish to retain your records on this matter, you are free to do so.

Thank you for bringing this matter to our attention. It is through the receipt of such information that we are

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made aware of matters that are of concern to the public.

Very truly yours,

/s/ Jonathan Zeisser
Jonathan Zeisser
Intake Investigator

JZ:jmb
Enclosure
cc: Atty. Mark D. Bensen
