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# State board investigating lawyer's complaint against Dakota County Attorney Backstrom

Lawyer: Pathologist felt threatened by Backstrom's e-mail

By Frederick Melo

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A Dakota County forensic pathologist on the verge of testifying for the defense in the Nicole Beecroft murder trial unexpectedly pulled out last November, with the trial under way. The attorney for the Oakdale teen later convicted of stabbing her newborn child to death claims the pathologist was spooked by a threatening e-mail from Dakota County Attorney Jim Backstrom.

Now, a state board is investigating a complaint alleging that Dakota County's chief prosecutor crossed the line into professional misconduct with the e-mail.

According to Beecroft's attorney, public defender Luke Stelpflug, the Nov. 5 e-mail indirectly threatened that Dr. Susan Roe and her boss, Dr. Lindsey Thomas, would lose their jobs if Roe testified as a defense witness in the Washington County case.

Backstrom, who is in Washington, D.C., on work-related matters, could not be reached for comment Wednesday, and a message left on his work phone and an e-mail were not immediately returned. Monica Jensen, a spokeswoman for Backstrom's office, said Wednesday that he would have limited comment except to deny any allegations of wrongdoing.

At the time of the Beecroft murder trial, Stelpflug and his associate, attorney Christine Funk, contracted Roe as an expert witness for the defense to take notes on trial statements made by medical experts for the prosecution and to testify on Beecroft's behalf.

After Roe pulled out, Beecroft's defense team had to rely on other doctors and expert witnesses

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at trial, without success. On Dec. 1, a Washington County judge convicted the 19-year-old of first-degree murder for stabbing her newborn daughter with a steak knife more than 100 times.

Beecroft, who was 17 at the time of the April 2007 killing, was sentenced to life without parole, over the defense's objections that the infant might have been stillborn.

Stelpflug maintains that Backstrom's e-mail did more than just hurt the defense's case. He said it amounted to coercion — a form of witness tampering. And that's illegal, Stelpflug said.

The Minnesota Office of Lawyers Professional Responsibility is investigating a complaint against Backstrom pertaining to the Nov. 5 e-mail and two other e-mails he sent to Thomas, the appointed medical examiner for eight counties.

In at least one e-mail, Stelpflug claims that Backstrom told Thomas that if she and her employees continued to testify as expert witnesses for defense attorneys, he and

Dakota County Sheriff Don Gudmundson would not support Thomas' reappointment as county coroner.

"The effect that Mr. Backstrom's e-mail had ... was concern for her continued employment," Stelpflug said.

Thomas and Roe are privately employed by the Regina Medical Center in Hastings but provide forensic services for Dakota County and neighboring counties. Thomas said Wednesday that the justice system depends on expert witnesses, and forensic experts are hard to come by.

Stelpflug said that on or about Nov. 10, he filed a motion with the judge in the Beecroft case, calling Backstrom's e-mails coercive. In a Nov. 12 e-mail, Backstrom allegedly contacted Stelpflug, Thomas and Washington County District Judge Mary Hannon to clarify and defend his previous messages, noting that he never expected Roe to withdraw from the trial. His first e-mail on the subject was sent in September.

Stelpflug said the complaint against Backstrom was filed with the lawyers board in late November or early December by State Public Defender John Stuart and Bill Ward, chief public defender for the 10th Judicial District, which includes Washington County. He said he contributed materials to the complaint and saw it briefly before it was submitted to the board.

Stelpflug was unable to provide copies of the e-mails. Calls to Stuart and Ward were not immediately returned Wednesday.

Thomas, however, confirmed she had received the three e-mails and confirmed their general content. She declined to provide copies of them to the Pioneer Press.



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Patrick Burns, an assistant director with the Office of Lawyers Professional Responsibility, said complaints regarding attorney misconduct are kept confidential unless a board panel finds probable cause for public discipline. He would not provide copies of the complaint.

"All I can do is confirm that the matter is being investigated," Burns said.

The board can privately reprimand an attorney or petition the state Supreme Court to take public action.

Frederick Melo can be reached at 651-228-2172.



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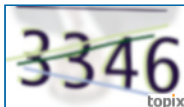
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