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VIA U.S. MAIL

Michael J. Satz
Office of the State Attorney
Broward County Judicial Complex
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Fort Lauderdale, Florida 33301
Sao17@sao17.state.fl.us

Re: Erica Berg

Dear Mr. Satz,

I represent Erica Berg. Recently Ms. Berg provided a statement to police and prosecutors in Broward County, Florida regarding allegations she made against Michael Irvin.

The Broward County State Attorney's Office declined to prosecute. They wrote a "close out" memo which was then publicly disseminated.

In attempting to justify a non-prosecution in such a publicly available close out memo, prosecutors should balance the need to justify their decision not to prosecute a case against the interest of victims. They should consider not only the alleged victim in that particular case, but the interest of all victims and the interest of justice as well.

Unfortunately, I believe that this close out memo regarding Ms. Berg's allegations concerning Mr. Irvin was irresponsible and appeared to reflect an attempt to protect the self-interest of the Broward State Attorney's office at the expense of all potential victims who allege drugging and rape in the future. The most obvious and egregious example was the inclusion of Ms. Berg's medical condition and the details of her toxicology screen. In addition, the report reveals the prescription drug she was taking for her private medical condition.

This was unnecessary, because Mr. Irvin and Ms. Berg agreed that Ms. Berg was under the influence at the time of the alleged incident. This disclosure served only to cause the victim public humiliation and will have a chilling effect on other victims' willingness to report crimes.

Also, the State makes reference to the victim's inconsistent statements, yet they fail to include the many inconsistent statements of Michael Irvin. Why is the alleged victim attacked in this way and yet no inconsistencies of the accused are mentioned?

In this close out memo it appears that the State Attorney's Office decided to hurt victims to protect its own public image, which was totally irresponsible and unnecessary given that no extended explanation was necessary for declining to bring charges.

Prosecutors should have recognized that their imbalanced account filled with disclosure of private medical and other information about the ingestion of drugs would have extreme ramifications for Ms. Berg and all other similarly situated victims.

In Florida, victims are given Victims' Rights Brochures which describe the rights that they have if a case is prosecuted.

I think that in the future victims should also be given a warning letter informing them that they are giving up their rights to privacy, even if a prosecutor declines to file any charges. The letter could be along the following lines:

WARNING TO VICTIMS

If you allege to the police or Broward County Prosecutors that you believe that you were drugged and raped please be warned that we may decide not to prosecute the individual you accuse.

If we decline to prosecute please be aware that we may do the following:

(1) Publish to millions on the internet our decision not to prosecute (close out decision) which may describe all drugs, prescription or controlled substances, that you admit ingesting to us and/or that are revealed in a toxicology report, even if those drugs had nothing to do with any drugging for which the suspect may be responsible.

(2) Please be warned that we may publish part of your private medical history if you are taking prescription medicine for it.

(3) We may attack you as being inconsistent even if you were drugged and your memory returns in flashes as a result.

(4) We reserve the right to attack your credibility publicly and not address publicly any statements by the accused which may be inconsistent.

(5) We reserve the right to publish such statements without giving you any notice of what our closing statement will say and without giving you the opportunity to respond.

(6) Please be advised that if you believe that your privacy has been invaded and that you are treated with less respect than the accused, then that is a risk that you take when you allege to law enforcement that you have been drugged and raped in Broward County.

Please sign below indicating that you give up your rights, that you understand that you have no rights in this situation and that you are willing to take the risks above in order to have us consider prosecuting your case.

Very truly yours, State Attorney Broward County

Of course the alternative for Broward County would be to stop their practice of disclosing irrelevant information about drugs when an individual reports that he or she has been drugged and raped. This is important because many victims are afraid to report crimes against them to law enforcement and such disclosures could have a chilling impact on their willingness to report.

We look forward to a response from the Broward County State Attorney and urge them to reconsider their policy and practice of invading the privacy of those who make allegations of drugging and rape.

Victims should not have to sacrifice their privacy in order to report what they believe is a crime against them and victims should not enjoy fewer rights than the accused.

Very truly yours,

ALLRED, MAROKO & GOLDBERG


GLORIA ALLRED