



BROWN GOLDSTEIN LEVY

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Dismissal of Dr. Riley's Charges Ends a Prosecution That Should Never Have Begun

Today, the State's Attorney for Cecil County dropped all charges in the murder prosecution of Dr. Nicola Riley. This action was taken a week before a hearing was to be held on her motion to dismiss all charges. Dr. Riley and her lawyers were confident that she would prevail on that motion because the conduct the State's Attorney charged is not a crime under Maryland law. The State's Attorney's decision to drop the charges confirms that he knew he could not prevail. Our client has been and continues to be appalled that the State ever brought this case.

The State's Attorney's Office in its press release concerning the reasons for the dismissal, cited conflicts in expert testimony and questions over where fetal demise occurred. Even in doing the right thing, the State's Attorney has again gotten it wrong —demonstrating a breathtaking ignorance of the law. In Maryland, a doctor cannot lawfully be prosecuted for murder for performing an abortion. From the day these charges were brought, the State's Attorney for Cecil County has admitted that he has been in "uncharted territory," subjecting a licensed physician to legal jeopardy based on his far-fetched misinterpretation of the fetal homicide statute, which explicitly grants immunity to doctors who perform abortions.

The press release also dishonestly spins the facts of the Elkton Police Department investigation and suggests that fetal demise might not have occurred in Maryland, depriving the State of jurisdiction. But in fact, the State's Attorney deliberately chose not to charge any instances of abortions where fetal demise occurred outside of Maryland. It is only reasonable to conclude that the State's Attorney finally realized the spurious nature of the charges and now seeks to muddy the waters to avoid taking responsibility for his grievous mistake.

Great harm has been done by this improper prosecution. Dr. Riley was arrested in front of her children at her Salt Lake City home. She then sat in jail for a month while the Cecil County prosecutors basked in the glow of national media attention. When she was finally brought to Maryland to answer these charges, Dr. Riley was forced to rely on family and friends for financial assistance to post a \$300,000 bond. As a physician charged with murder, Dr. Riley's practice has been irreversibly damaged by the negative public attention caused by the State's Attorney instituting this case without a sufficient review of the law and applicable facts.

The State's Attorney had the opportunity to partially right the wrong of having instituted a prosecution that was unsustainable on the facts and the law, by acknowledging that Dr. Riley's conduct was not criminal. He did not do so, and by choosing this moment to dismiss, denied her the opportunity to have a court of this State tell her what we know to be true: she committed no crime. Tonight Dr. Riley and her family have the joy of knowing that her liberty is no longer in jeopardy, but that joy is tempered by the knowledge that her reputation and livelihood have been permanently and wrongly damaged by an ill-considered prosecution.

The ominous final sentence of the statement by the State's Attorney ("the investigation will remain open") demonstrates that a broader harm has been inflicted upon the citizens of this State. Women in the United States have the right to terminate their pregnancy in private consultation with their physicians. But if a rogue prosecutor can be allowed to have a doctor who performs this constitutionally protected procedure indicted, thrown in jail, and publicly vilified, only to dismiss the charges with a thinly veiled threat of further "investigation," the constitutional right to an abortion will become an empty one indeed.

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