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Marin judge dismisses misconduct charges against attorney



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A Marin County Superior Court judge has dismissed charges against an attorney accused of criminal misconduct in a client's case.

Tyler Rogers Smith, 43, was accused of bribing a witness to not testify against his client in a Marin vandalism case. He also was accused of having the witness not cooperate with an investigator because of her out-of-court agreement with the client.

Judge Geoffrey Howard held a preliminary hearing — the proceeding at which a judge decides whether there is sufficient evidence to justify holding a trial — on Friday. Howard did not find enough evidence to advance.

The ruling was the second unsuccessful preliminary hearing for the prosecution. Howard dismissed the case in September because of evidence issues, but the prosecution refiled charges.

San Rafael attorneys Charles Dresow and Will Morehead represented Smith after the Marin County District Attorney's Office filed charges against him last December.

"He never was guilty of these offenses," Dresow said Friday. "The impact of this case on my client's life and career is profound, and we are grateful that he gets to move on and continue his life."

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Morehead said the district attorney's office filed felony charges against Smith without probable cause. He also alleged that false statements were made under oath in court about a search warrant.

"Now that Mr. Smith is vindicated, we will turn our attention to making sure this doesn't happen to another colleague," Morehead said.

Last year, Smith represented Nicholas Pasichuke, who was accused of damaging his ex-girlfriend's laptop. Pasichuke proposed an out-of-court agreement that had him pay her \$3,000 to help her move from California to Texas. In exchange, she would agree to not voluntarily testify in court and not cooperate with the district attorney's office, investigators said.

Smith and the witness both signed the agreement, according to a copy of an investigation filed by Dresow.

The case never went to trial. Pasichuke pleaded guilty to the vandalism charge last December and was ordered to pay fines, according to court records.

Smith's preliminary hearing centered on Pasichuke's agreement with the witness. Prosecutor Brian Roberts said the agreement was evidence that Smith persuaded the witness to not cooperate with the investigation.

However, Howard and the defense noted that the agreement still allowed the witness to testify against him if she was subpoenaed.

In his argument before the judge, Dresow said no evidence showed the payment came from Smith or that he was a party to his client's agreement with the witness.

Roberts declined to comment after the judge dismissed the case. The district attorney's office also declined to comment.

"I've practiced in over 15 counties in the state of California and I never crossed more unprofessional deputy district attorneys than I have in this case," Smith said after the hearing Friday.

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