IN THE SUPERIOR COURT OF ATHENS-CLARKE COUNTY
STATE OF GEORGIA

JARROD MILLER, Applicant, v. DEBORAH GONZALEZ, in her official capacity as District Attorney, Respondent.	:	CIVIL ACTION NO. SU-23-CV-0108

PETITION FOR DISCOVERY SCHEDULE OR, IN THE ALTERNATIVE, SET A HEARING ON THE REMAINING ISSUES

COMES NOW, Jarrod Miller ("Mr. Miller"), Applicant in the above-styled action, and respectfully petitions for the Court, pursuant to Rule 5.4 of the Uniform Rules for the Superior Court, for an early planning discovery conference to set a discovery schedule; or in the alternative, to set a hearing on the remaining issues. In support of this Petition, Applicant respectfully shows as follows:

BACKGROUND

On May 12, 2023, Respondent Deborah Gonzalez ("Respondent") filed a Confession to Judgment ("Confession"). See Confession. Respondent specifically "confesses to judgment being entered granting the relief sought in the First Amended Application for Writ of Mandamus that a writ of mandamus be issued 'requiring [the District Attorney] to comply with her statutory duties under O.C.G.A. § 15-18-16.' Other than as expressly admitted in her Answer or First Amended Answer, the District Attorney does not admit any factual allegation or legal conclusion of the First Amended Application for Writ of Mandamus." Confession, ¶ 3.

Simultaneously, Respondent filed a Notice of Appeal based on her Confession. See

Resp't's Notice of Appeal. On May 17, 2023, Respondent filed her Amended Notice of Appeal to Revise Record Transmittal. See Resp't's Amended Notice of Appeal.

As of the filing of this Petition, the Court has not made an entry of Final Judgment. This Petition follows.

ARGUMENT

1. *The Court should refrain from entering Final Judgment on the Confession of Judgment because the Confession impermissibly confesses only to part of the relief sought.*

Because Respondent only partially confesses to judgment, Mr. Miller respectfully requests that the Court abstain from entering final judgment as there are still pending issues before the Court. "An order is considered a final judgment within the meaning of O.C.G.A. §5-6-(34)(a)(1) where it leaves no issues remaining to be resolved, constitutes the court's final ruling on the merits of the action, and leaves the court's final ruling on the merits of the action, and leaves the parties with no further recourse in the trial court." CitiFinanical Services, Inc. v. Holland, 310 Ga. App. 480, 481 (2011) (internal citations omitted). The Court should not enter final judgment based on the Confession because Respondent does not confess to all prayers of relief within the First Amended Application for Writ of Mandamus. Specifically, the issues of relief, further contempt, and attorney's fees are still outstanding.

Under O.C.G.A. § 9-12-18(a), "[e]ither party has a right to confess judgment without the consent of his adversary and to appeal from such confession without reserving the right to do so in cases where an appeal is allowed by law." While Respondent does not need Mr. Miller's consent to confess judgment and subsequently appeal, the Confession must still comport with the common law requirements of such confessions. See e.g. Melins, Currie & Sherwood v. Horne, 29 Ga. 536, 537 (1859) (explaining that confessions of judgment are not automatically presumed to be valid as "[t]he appeals were good, if the confessions of judgment were good, and if appeal lies from a

confession of judgment – this may be assumed").

In Information Buying Co. v. Miller, the Supreme Court of Georgia explained, "[a]t common law, a judgment by confession was entered for the plaintiff in a case where the defendant, instead of entering a plea, confessed the action, or at any time before trial confessed the action and withdrew [her] plea and other allegations." 173 Ga. 786, 786 (1931). Here, Respondent has not confessed to the actions in question or to her statutory duty to uphold the duties of the Office of District Attorney. She has *explicitly* refused to confess the actions alleged against her.

Specifically, Respondent's Confession states, "[o]ther than as expressly admitted in her Answer or First Amended Answer, the District Attorney does not admit any factual allegation or legal conclusion of the First Amended Application for Writ of Mandamus." Confession, ¶ 3. Moreover, she has publicly stated "[b]y confession to judgment, I am not admitting or agreeing to any factual allegation or legal conclusion made by Mr. Miller as part of his lawsuit. My confession to judgment merely provides that a mandamus order may issue to require that I comply with my statutory duties under O.C.G.A. § 15-18-6, which I have already been doing since my first day in office." See DA Gonzalez's Statement on the Writ of Mandamus Confession of Judgment, attached as Exhibit "A."

Comparatively, Mr. Miller's Prayer for Relief seeks:

> (a) That the Court hold its hearing on April 6, 2023 following its previous order in accordance with O.C.G.A. § 9-6-27(a);
> (b) That if Respondent cannot show cause at the hearing, that the mandamus nisi be made absolute, requiring Respondent to comply with her statutory duties under O.C.G.A. § 15-18-6 and that if she fails to comply with the Court's order, she be held in contempt of court; and
> (c) That the Court grant such other and further relief as it deems just and equitable, including attorney's fees, costs, and expenses.

See First Am. App. for Writ of Mandamus, Prayer for Relief.

Fatally, Respondent's Confession omits from subsection (b), "and that if she fails to comply with the Court's order, she be held in contempt of court;" as well as subsection (c) in its entirety, that is: "[t]hat the Court grant such other and further relief as it deems just and equitable, including attorney's fees, costs, and expenses."

In typical confessions of judgment, "[a] judgment must be regularly entered upon a confession of judgment. *The confession itself is not the judgment of the court*. The confession amounts to no more than an admission of indebtedness, and an agreement to take judgment thereon when it can properly be rendered." Whitley v. Southern Wholesale Corp., 45 Ga. App. 445, 445 (1932) (internal citations omitted) (emphasis added). Therefore, the trial court must still enter Final Judgment after the confession of judgment is filed. However, where there is a defect in the confession of judgment, "[s]uch entry of the judgment on confession was null and void; and no valid judgment c[an] be entered thereon." Miller, 173 Ga. at 786. Because there are defects in the Confession, namely, that Respondent has not confessed to all relief sought within the Application, and she has not withdrawn her allegations set forth in her pleadings, no valid final judgment can be entered.

2. *The Court should grant Mr. Miller's Petition for Discovery Schedule because final judgment cannot be entered if predicated upon the Confession.*

Because the Confession is improper, the Court should set a discovery schedule to allow the litigation to efficiently proceed. Mr. Miller filed his Application for Writ of Mandamus on March 13, 2023 and diligently pursued discovery. Respondent served Requests for Admissions shortly after the action was commenced, and he moved to take depositions prior to thirty days after service of the Application. Respondent delayed discovery by filing a Motion to Dismiss with her answer. On May 9, 2023, after full briefing and argument by counsel, the Court denied Respondent's Motion to Dismiss—commencing the discovery period. Despite repeated efforts, Respondent's

counsel has been unwilling to cooperate in the scheduling of Mr. Miller's depositions of necessary witnesses or a deposition of Respondent during the pendency of this case.

Respondent filed her Confession and Notice of Appeal in hopes of depriving Mr. Miller of his right to discovery and a trial on the merits. As the Supreme Court of Georgia has held, "[c]ivil litigants in this state's courts are guaranteed the right to a jury trial by the Constitution of Georgia and the Civil Practice Act. Waiver of that right is a matter which is 'carefully controlled' by statute." Bank South, N.A. v. Howard, 364 Ga. 339, 340 (1994).

Though in D. H. Overmyer Co. Inc., of Ohio v. Frick Co., the Supreme Court of the United States held that it was not a violation of an individual's due process rights to waive the right to a hearing prior to civil judgment, Overmyer is clearly distinguishable from the case at hand. 405 U.S. 174, 185 (1972) (holding "[t]he due process rights to notice and hearing prior to a civil judgment are subject to waiver") Specifically, Overmyer concerned the ability of two contracting parties in which both parties had *consented* to a confession-of-judgment clause in the contract. There is no such agreement in this case.

Dissatisfied with this Court's lawful denial of her Motion to Dismiss and her subsequent Request for a Certificate for Immediate Review, Respondent seeks to usurp the power of the trial court and supplant it with that of appellate courts (in media statements, Respondent repeatedly and incorrectly states that the case is now being appealed to the Court of Appeals rather than the Supreme Court of Georgia). See Transcript of Deborah Gonzalez's Interview with WUGA 91.7 and 94.5 FM on May 24, 2023, attached hereto as Exhibit "B." However, the Georgia Court of Appeals has held,

> [D]iscovery is an integral and necessary element to our civil practice. Wide latitude is given to make complete discovery possible. The broad purpose of the discovery rules under the Civil Practice Act, is to enable the parties to prepare for trial so that each party will know the issues and be fully prepared on the facts. Discovery is

> specifically designed to fulfill a two-fold purpose: issue formulation and factual revelation. The use of discovery has been held to be broadly construed.

International Harvester Co. v. Cunningham, 245 Ga. App. 736, 738 (2000) (internal citations omitted). Both purposes of discovery, issue formulation and factual revelation, are vital to the Application for Writ of Mandamus against Respondent, and to the Court's entry of a Rule Absolute once the appeals process is concluded or the Confession is set aside by this Court. However, Respondent seeks to prevent legitimate discovery.

Respondent's pleadings show a complete disdain for judicial efficiency and authority. This Court has the discretion to issue an order setting a discovery schedule, and it is in the interest of justice and due process for the Court to do so.

3. In the alternative, the Court should set a hearing on the issues that remain.

Even if the Court were to find that the Confession was appropriate, the issue of whether the Court should "grant such other and further relief as it deems just and equitable, including attorney's fees, costs, and expenses" remains outstanding. Under O.C.G.A. § 9-15-14(b),

> The court may assess reasonable and necessary attorney's fees and expenses of litigation in any civil action in any court of record if, upon the motion of any party or the court itself, it finds that an attorney or party brought or defended an action, or any part thereof, that lacked substantial justification or that the action, or any part thereof, was interposed for delay or harassment, or if it finds that an attorney or party unnecessarily expanded the proceeding by other improper conduct, including, but not limited to, abuses of discovery procedures available under Chapter 11 of this title, the "Georgia Civil Practice Act." As used in this Code section, "lacked substantial justification" means substantially frivolous, substantially groundless, or substantially vexatious.

Mr. Miller should therefore have the opportunity to put forth evidence and be heard on this issue. See, e.g., Eichenblatt v. Piedmont/Maple, LLC, 358 Ga. App. 234, 236 (2021) (Wherein defendant confessed judgment at the beginning of trial. After the conclusion of trial, the Court entered final judgment on the remaining claims and incorporated the confessed judgment amount.);

Hill v. Clarke, 310 Ga. App. 799, 800 (2011) (holding an applicant in mandamus action was entitled attorney's fees).

Therefore, because Respondent did not confess judgment to all of the relief Mr. Miller seeks, this Court has the authority to set a discovery schedule and set a hearing on the issues remaining. See Cohran v. Carlin, 249 Ga. 510 (1982).

CONCLUSION

For the reasons set forth above, Mr. Miller respectfully requests the Court enter an order setting a discovery schedule, or in the alternative, set a hearing for the issues remaining.

Respectfully submitted this 30th day of May 2023.

EPPS, HOLLOWAY, DELOACH & HOIPKEMIER, LLC

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EXHIBIT A

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www.westerncircuitda.com

For Immediate Release: DA Gonzalez's Statement on the Writ of Mandamus Confession of Judgment

It is unfortunate that the Superior Court rejected my request for immediate interlocutory review of the order denying the dismissal of the writ of mandamus, which would have allowed the Georgia Court of Appeals to rule on these issues now. If Mr. Miller's theory of the writ is permitted to proceed, it would authorize a judicial challenge to every discretionary decision of a public official within the judicial branch and cause massive disruption to the functioning of the judicial process.

Indeed, Mr. Miller's pursuit of mandamus and litigation has already caused unnecessary, negative, and massive disruption to the functioning of the District Attorney's Office, resulting from an overwhelming number of discovery and open records requests and other litigation tactics and subpoenas to sitting judges and other government employees. None of that is in the best interest of the citizens of the Western Judicial Circuit, nor is it an appropriate use of taxpayer resources. This unprecedented use of mandamus by Mr. Miller implicates important public policy questions regarding the limits of prosecutorial discretion and, more important, whether private citizens may use the compulsory process of the courts to challenge the policy decisions of elected prosecutors.

Pursuing an expedited direct appeal is in the best interest of the Western Judicial Circuit District. Georgia law, O.C.G.A. § 9-12-18(a), provides that "[e]ither party has a right to confess judgment without the consent of his adversary and to appeal from such confession without reserving the right to do so in cases where an appeal is allowed by law." To avoid continued and needless disruption to my office's attempts to do our job effectively, I have elected to utilize this statutory right and proceed directly to appeal.

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EXHIBIT B

ATHENS NEWS MATTERS

WUGA 91.7 and 94.5 FM

Athens, Georgia

May 24, 2023

Hosts:

Alexia Ridley

Martin Matheny

Guests:

District Attorney Deborah Gonzalez

Attorney William Overend

MS. RIDLEY: Today on *Athens News Matters* District Attorney Deborah Gonzalez is under fire for how her office works with crime victims. We'll explain what Marsy's Law is and how it affects the DA's office, and we'll hear from Gonzalez herself about a judge's refusal to dismiss a lawsuit against her. That's coming up on *Athens News Matters*.

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This is *Athens News Matters* from WUGA News. I'm Alexia Ridley.

The office of District Attorney Deborah Gonzalez is embroiled in controversy. Later in the show we'll break down a judge's ruling that Gonzalez and her staff violated a state law requiring prosecutors to keep victims informed about the progress of legal actions.

But, first, another legal matter involving the District Attorney. In this case a downtown business manager alleges that Gonzalez is neglecting the duties of her office by instituting a blanket policy of not prosecuting people for a variety of minor offenses, including possession of drug-related objects, possession of marijuana, and truancy.

After a judge refused Gonzalez's motion to dismiss the lawsuit and some additional legal wrangling, the case is now headed to the Georgia Court of Appeals.

Recently I spoke to District Attorney Deborah Gonzalez

about the judge's ruling. Here's our conversation.

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MS. RIDLEY: Tell us what your response is to Judge Emerson's ruling.

MS. GONZALEZ: You know, we're disappointed. We felt that the law is on our side and that he didn't give enough credence to the argument. You know, considering how quickly he had that response so soon after it sort of begs the question is if he even listened or if he had his mind already made up and had the order ready to go.

And so that, you know, leaves a concern as to judiciary bias with these kind of cases and any kind of cases. You know, we expect the judges to be objective; we expect them to have an open mind and to focus on the law and to listen to the arguments that are made. By having an order so quickly ready and out the door as of 10 o'clock in the morning was surprising and just leads one to think he was not really open to listening and that he had already made his decision on this.

MS. RIDLEY: What were the arguments that you brought forth?

MS. GONZALEZ: We had a number of arguments. It was a pretty long motion to dismiss, as we were also addressing the concerns made by the Plaintiff. But the main argument focused on, one, that this Plaintiff does not have standing. He is not

being prosecuted, he is not in threat of being prosecuted from my office. And so just the fact that he is a citizen, a resident here, doesn't necessarily give him standing.

Usually when we see a mandamus action it's because somebody is being harmed by what is happening and that harm is direct harm.

And so one of the things that I like to tell people, is, for example, when I actually sued the Governor back in 2020 asking for an election, there was a mandamus action against the Secretary of State. And that order was to put the election on the ballot. It was a very specific ask, something that only the Secretary of State could do. And I, you know, was harmed because I could not get on that ballot.

So you can see that directness; right? And we don't have that directness in this writ of mandamus. And so we feel, one, he doesn't have standing; but, two, if the court continues to let this go, that this is a way to weaponize the judicial system against individuals that people just don't like the way that they're doing their job.

And, you know, when all of this began, when you look at the first complaint, what you see is a listing of ways he didn't like how I was doing my job. He could never say I wasn't doing it. But what he was in fact saying was that he did not approve of the way that I was doing it. And I have always maintained

that -- you know, from the very beginning, when I campaigned my platform was out there; everybody knew what I stood for. They knew that I was reform-minded. They knew that I came in and when I came in I had that double mandate of making sure the community was safe but also that we needed some reform and change in the system.

That is not a surprise, and since day one that is exactly what I have done and have done it in a way to be as transparent as I could for everybody out there. So that's another, you know, argument that we made is that if he's saying he voted for me he knew what he was voting for. My platform was absolutely out there for everybody to see, and I did not change it once I came into office.

The third argument is the idea that this really isn't the appropriate mechanism because it's not specific. The request to have, you know, sort of this oversight on every decision every day that I'm in office, well, the voters elected me to do that. They didn't elect a judge to oversee the DA's office. It's never happened before. And any elected official has a certain amount of discretion and you cannot, you know, put in a lawsuit to say you can't use that discretion unless you're making a decision the way that we want it to be, the way that we'd like it to be.

I mean, if we look at all of our elected officials, there will always be decisions that we agree with and decisions

that we do not agree with. But we cannot just go and every time they do a decision we don't agree with put in a writ of mandamus and weaponize it against them so that they end up really chilling our function to the point of we'll end up not making decisions because we're always going to be in court justifying everything that we've done.

And I think it's -- the fourth thing that we were looking at is this idea of the two things they focused on was possession of marijuana under an ounce. This is personal possession. I mean, in Athens we have an ordinance that says we will not arrest you; we will give you a citation. Now in Georgia we have medical cannabis bills and production facilities. So it's kind of ironic to say that that's the issue we're going to go after her.

And the second thing that they really focused on is the truancy issue. And, you know, my predecessor did not prosecute truancy, his predecessor did not prosecute truancy. Our solicitor general does not prosecute educational neglect against parents.

I mean, these are really to me the belief that these are red herrings meant to distract the true essence of this writ of mandamus, which is a political attack, and to force me, to intimidate me, and to attempt to shame me and to quit.

And the last argument that was made by my lawyer is

that there are other mechanisms if they are not happy with what I can do. If they think that I'm incompetent they can file a complaint with the State Bar. But he actually said -- the attorney said, we are not complaining about her competence. We're not saying she's incompetent. We're not asking for her to be removed.

What they're asking for is continuous oversight of my function, and that is not what a writ of mandamus is for. They can go for impeachment; they can go for recall. Or, you know what? The election is next year. They can vote me out. They can vote somebody else in.

But what we're seeing is that this is not really a question of the safety of the community. It's a question of we want this person out because she represents the opposite of what we feel justice is. Not what the community feels justice is, but what these legislators and what these minority conservatives feel that justice should be in this community of Athens.

And I think Athens as a community spoke very clearly when they elected me what kind of justice that they wanted and that they wanted reform and they don't want Black, brown, and poor kids locked up on charges that it's just them being, you know, kids.

MS. RIDLEY: If this measure were to succeed, what would it mean for your office and other elected officials?

MS. GONZALEZ: Well, if was to succeed what we're going to see is that it's going to, number one, disfranchise [*sic*] a whole community, right, because it says, you know what? Your vote doesn't count. What counts is that one individual citizen can now weaponize this kind of mechanism against any elected official. Not just the DA, but any elected official. That includes the sheriff, the mayor, the commissioners, the board of education members, the coroner, the clerk of court. Any elected official will now be subject to this particular standard and will be mired in lawsuit after lawsuit after lawsuit because one individual does not agree with decisions that have happened.

And that is not our democratic system at all, right? We do things by majority vote. We do things by a majority of the community and the population saying that this is what we want.

So, number one, voters are disenfranchised in that; and, number two, we're just going to be losing out on a lot of resources, money, staff, effort trying to defend against these mandamus writs. And they are very, very expensive in time and in money. I mean, I have received from this lawyer open records requests, two a day, for one month continuously. And so this waste of precious resources and time is a big assault on our resources and time so that we can go and keep our community safe.

So those are things that can happen if this goes forward.

MS. RIDLEY: Governor Kemp recently signed a law implementing the Prosecuting Attorneys Qualification Commission. Do you feel prosecutors are facing unfair scrutiny statewide?

MS. GONZALEZ: Yes, we are. And it's certain prosecutors, not all prosecutors. And I think they have made that very clear when you listen to the way that they talk about it. They talk about rogue prosecutors; they talk about reform-minded prosecutors; they talk about left-leaning prosecutors. They have targeted certain prosecutors with that. And what I have told, you know, the community members when I have spoken against that bill is that, you know, this bill creates two committees, one of five people, one of three people, eight people not elected by the community to then hold a pseudo hearing and decide to remove a duly elected district attorney who was elected by the community based on the values that that DA shared with the community and based on the values and approach that that community wants justice to be done.

And so it is an absolute anti-democratic procedure and mechanism and, again, disenfranchises voters because it absolutely makes their vote not count and not matter.

MS. RIDLEY: District Attorney Deborah Gonzalez, thank you for speaking with us this afternoon.

MS. GONZALEZ: You're very welcome, Alexia. Thank you.

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MS. RIDLEY: Welcome back to *Athens News Matters*. I'm Alexia Ridley.

We just heard from District Attorney Deborah Gonzalez and her response to a lawsuit challenging her decision not to prosecute a handful of low-level crimes. That's not the only legal problem facing Gonzalez's office, however. On Friday, Chief Superior Court Judge Eric Norris ruled that the prosecutor's office had violated the Georgia Crime Victims Bill of Rights in its handling of a rape case.

To learn more about the ruling and the law, my colleague, Martin Matheny, sat down with Bill Overend, who was an Assistant District Attorney in the Western Judicial Circuit under Gonzalez's predecessor, Ken Mauldin.

He now represents victims of domestic violence in divorce and custody cases against their abusers.

Here's their conversation.

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MR. MATHENY: I want to start by talking about the decision that Judge Eric Norris passed down that the District Attorney's office had violated Georgia law. It's a law called Marsy's Law. Can you kind of explain what's going on there?

MR. OVEREND: Okay. So Marsy's Law -- Marsy's Law originally was passed in California ten, twelve, maybe even a few more years ago, as a comprehensive victim bill of rights and the

advocacy group that worked on getting it passed in California has spent the past couple of decades trying to get it passed in other states, too.

We've actually had a victim bill of rights in Georgia for I think as long as I've been a lawyer, so that's a good 20-plus years. The difference with Marsy's Law and what recently passed in Georgia in 2018 and '19, passing a Georgia Marsy's Law, is it actually codifies in our state constitution that victims are a protected class.

And what that really does is that it gives victims who have not been treated appropriately as far as notification and participation in plea decisions or things of that nature -- it actually gives them a cause of action against a government or a prosecutor based upon violation of their civil rights under the state constitution.

So it really beefed up -- it beefed up enforcement and it beefed up remedies available to victims who have just been ignored by a prosecutor or some other actor in the criminal procedure process.

MR. MATHENY: So what happened in this specific case?

MR. OVEREND: In this specific case we have a child victim, child molestation, allegations of rape. The case was set for trial and the Assistant District Attorney had failed to secure the presence of and the availability of the forensic

interviewer who had done one of the initial interviews with the child victim.

So this use of forensic interviewers to capture in a neutral setting, in a controlled setting, and in a safe setting some details about what happened is an integral part of investigating and prosecuting crimes against children.

The ADA apparently failed to subpoena the forensic interviewer and so asked for a continuance and frankly admitted I just -- I forgot to or was unable to subpoena this person and we need this person for trial.

The Defendant's attorney objected to the continuance. "They've had weeks and weeks. So why this wasn't at the top of their witness list, why this person wasn't subpoenaed six weeks ago is -- there's no excuse, and so we object to a continuance," and the judge agreed.

And so they chose just to dismiss the charges instead of moving forward at trial without what is most likely a material witness, but who knows now because they just sort of gave up.

And that is the fundamental violation, of not keeping -- of not keeping the family, not keeping the victim in the loop about decisions to dismiss, about giving them an opportunity about decisions to enter pleas to drastically reduce charges.

This isn't the first time this has happened under this administration. There is multiple situations of victims not

being informed or just not kept in the loop, which is just -- that's the whole point of it, is don't leave them out of the process.

It's not that the victims are supposed to be in control of the prosecution. Sometimes cases just can't be won. Sometimes prosecutors, sometimes elected DAs have to make hard calls on a case-by-case basis. But you can't leave the victim out of that conversation.

And that's what's been going on, and it's just laziness or just not knowing how important it is, either both legally and just sort of morally.

MR. MATHENY: Is this a function of being under-staffed? We've heard that a number of times, about the DA's office being woefully understaffed. Is this a function of that as well?

MR. OVEREND: I think it's a function of rank inexperience and just not fundamentally understanding how important it is.

There's not a prosecutor anywhere in the country who has folks just sitting around looking for something to do. They're all understaffed; they all have more cases on their docket than they would like to have. It's always a prioritizing game. It's, like, all right, well, I know I've got -- it's just -- part of how hard that job is, is that any ADA in this country

is maintaining a caseload right now that's about four times what any busy civil attorney has on their desk. That's just the nature of it.

So that's not an excuse from my perspective. I think it's just a fundamental misunderstanding of their duties and obligations and responsibilities to victims in these types of cases.

MR. MATHENY: Is there any sort of punishment that can be handed down to the DA's office as a result of this ruling?

MR. OVEREND: So what happened on Friday was the relief that the family was seeking, which is: Okay, first of all, we don't want to have to speak to this office ever again. We're fed up. We're angry. And we still have a case pending against this abuser, and we don't trust them to handle that case any better than they handled this one that was dismissed. So we want ...

It's pretty extreme for a district attorney to be forcibly recused. There's plenty of other times when DAs recuse themselves because, oh, well, I went to college with this defendant and so we're going to need -- I mean, the same way judges are.

But this was -- this was saying because of these violations of Marsy's Law this is the basis and the reason that we want someone brought in to handle this case on our child's behalf because we don't trust the DA's office anymore to do it

properly.

MR. MATHENY: So was the recusal forced or did the District Attorney just sort of concede, okay, we'll back out?

MR. OVEREND: I don't believe the DA's office put up any fight as to that. But in answer to your previous question, because of Marsy's Law there is an availability to this family to bring suit against the District Attorney's office for violating this victim's civil rights by not handling their responsibilities to victims appropriately. There's several other jurisdictions that have cases pending like this, have lawsuits pending for violating victim's civil rights and the Georgia Constitution.

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MS. RIDLEY: Bill Overend is an attorney who represents domestic violence survivors. Prior to that he was an Assistant District Attorney in Athens-Clarke and Oconee counties. He spoke to WUGA's Martin Matheny.

You've been listening to Athens News Matters from WUGA News. The opinions expressed on this broadcast do not necessarily reflect those of WUGA or the University of Georgia.

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IN THE SUPERIOR COURT OF ATHENS-CLARKE COUNTY
STATE OF GEORGIA

JARROD MILLER, Applicant, v. DEBORAH GONZALEZ, in her official capacity as District Attorney, Respondent.	:	CIVIL ACTION NO. SU-23-CV-0108

CERTIFICATE OF SERVICE

The undersigned hereby certifies that I have this day served a copy of the within and foregoing *Petition for Discovery Schedule, or in the alternative, Set a Hearing on the Remaining Issues*, by electronically filing the same with the Court via the PeachCourt efile system, which will cause the Clerk of Court to provide Statutory Electronic Service to the following:

S. Derek Bauer
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Ryan E. Harbin
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This the 30th day of May 2023.

EPPS, HOLLOWAY, DELOACH & HOIPKEMIER, LLC

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