

DECISION '96

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Kaplan plea bargain questioned

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An attorney said Assistant Macomb County Prosecutor Steven Kaplan, a candidate for Oakland County prosecutor, "had no business" plea bargaining a case involving a dentist accused of fondling a former employee.

David Moffitt, an Oakland County commissioner, took issue with comments Kaplan made about the case on Spotlight on the News, a public affairs program that aired Sunday afternoon on WXYZ-TV Channel 7. Moffitt is an attorney who represents the victim in a civil case against the dentist.

"This is a case that should have been set for trial. The

question should be, 'Why did you plead this case in the first place?'" the Farmington Hills Republican said after seeing the show. Kaplan, a Democrat, said the case was properly handled.

Moffitt said the case demonstrates Kaplan's eagerness to plea bargain, a concept Oakland County prosecutors have largely shunned. Kaplan is running against Republican David Gorcyca to replace Prosecutor Richard Thompson.

Plea bargaining has been a key issue in the campaign. Kaplan said Moffitt's comments were politically motivated, and the plea agreement was appropriate because the victim had no prior criminal record. Warren Police Sgt. Ed Tomlinson said

the case was handled properly and that the victim agreed to the plea.

The victim said while working as a dental assistant to Dr. Ronald Miller from 1992-94, the Warren dentist groped her, grabbed her thighs, pushed his pelvis up against her and tried to hug and kiss her in at least two incidents in 1994.

Miller was charged with fourth-degree criminal sexual conduct. Kaplan, who was prosecuting the case, said the victim and police agreed with prosecutors to place the dentist on probation and to dismiss the charge after a year if he behaved and followed counseling.

Moffitt, however, said the victim did not agree to the plea but that prosecutors pre-

sented it to her as a done deal. "They told her, 'This is what we're doing,'" he said.

After the victim publicly protested the plea agreement earlier this year, prosecutors withdrew the plea. The case is set for trial this December.

Kaplan said on the show that all parties involved, including the victim and police, agreed to the plea.

"She can claim anything she wants, but three people other than I have stated under oath at a hearing that she wanted that plea," Kaplan said. "The bottom line is she recanted what she wanted, and we complied with her."

Moffitt said the victim was "adamant" that she did not want the plea. He said there was no reason for Kaplan to

plea bargain, as there was plenty of solid evidence against the doctor.

Kaplan said on the show he will not plea bargain violent crimes but would consider plea bargaining if there was a weakness in the case or if a witness recanted testimony.

The candidate said it's not up to him to decide whether to plea bargain. "It's the victim's case, not my case. If the victim doesn't want to plea bargain, then there won't be any plea bargain," he said.

Gorcyca said he would not plea bargain capital cases and would continue "the no plea bargaining policies" of former Prosecutor L. Brooks Patterson. Gorcyca has said he would consider plea bargaining more cases than Thompson has.

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