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PLEASANT RIDGE

Judge dismisses assault case naming police chief on statute of limitations

By Joshua Gordon

August 6, 2015

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PLEASANT RIDGE — United States District Court Judge Matthew Leitman has dismissed a case that named Pleasant Ridge Police Chief Kevin Nowak among eight defendants in a claim that Nowak and other officers sexually assaulted the plaintiff in 1990.

In the 25-page ruling, Leitman stated that the plaintiff could not provide sufficient evidence to her claim of insanity over the past 25 years, and thus the civil case is dismissed under the statute of limitations.

“(The plaintiff) admits that her action is untimely on its face, but she argues that she may nonetheless proceed because the statute of limitations were tolled by her insanity,” Leitman wrote in the ruling. “The court disagrees. (The plaintiff) has not presented sufficient evidence to create a genuine dispute of material of facts as to whether she was continuously insane, or insane at all, and thus entitled to invoke the Michigan statute that provides for tolling due to insanity.”

The woman, now in her 40s, alleged in the \$75,000 lawsuit filed in January 2014 that she was sexually assaulted while participating in the Garden City Police Explorer Post as a high school student from 1989-1992. The program allowed teenagers the opportunity to experience law enforcement as a potential career.

According to the lawsuit, in January 1990, the woman, at the age of 15, rode with Nowak on a ride-along when he was serving as a Garden City patrol officer. She claimed Nowak sexually assaulted and battered her while he was on duty in his patrol car at the Garden City Industrial Park.

Two months later, the plaintiff claimed, Nowak again sexually assaulted and battered her at his Garden City home.

According to the lawsuit, a few years later the woman became a drug addict and later, a prostitute resulting from the emotional and physical abuse from the sexual assaults. The lawsuit also claimed Nowak aided in the woman’s drug problem by paying off her drug debt.

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In the lawsuit, the woman alleged that three other defendants also sexually assaulted her during her time in the program, and three officers, also named as defendants, used their positions to cover up the assaults.

The woman's lawyer, Lyle Dickson, said the drug addition continued through August 2013 and she did not understand her right to file a lawsuit because of her mental health resulting from the alleged assault and battery and subsequent drug problems.

"The judge was following the law in the way he interpreted it, but we think there was at least enough for material fact," Dickson said of the ruling. "The judge was looking for an exact date and time she became insane, and my argument was it was during the first sexual assault, and that dramatic event caused insanity and was aggravated with each following sexual assault. It was a very difficult burden to hold."

According to state law, there is a two-year limitation period applicable to the plaintiff's assault and battery claim and a three-year limitation period for both the negligence claim and the personal injury claim.

Dickson said he reported the incidents to the Michigan State Police to file criminal charges, but in Leitman's ruling, he said the state police also determined charges could not be pursued because of the statute of limitations.

In his reasoning for the ruling, Leitman stated three occasions in the past 25 years in which the plaintiff appeared to be of sound mind and, therefore, was not insane.

The first was that the woman placed three children up for adoption from 1998-2006 and signed legal paperwork to do so. Leitman stated that no party involved in the adoption process raised any concerns of her competency to execute the documents.

Additionally, the plaintiff pleaded guilty to several criminal charges in 2000 and 2001, the report stated, and under Michigan court rules, the state trial courts could not have accepted her guilty pleas if they had any reason to question her competency.

Thirdly, Leitman stated that the plaintiff said she did not report her assaults sooner because "she feared that people would not believe her and that the police would stick up for her assaulters who were fellow police officers and police department employees."

Leitman continued that her explanation suggested she went through a "two-step thought process" that showed she did know she was wronged and the defendants violated her rights.

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and did not address the merits of the plaintiff's accusations.

Dickson said he and his client will review whether they want to appeal the ruling or not, but either way, he doesn't feel the ruling proved the defendants were innocent.

"Mind you, this does not exonerate these people, and we have a compelling amount of evidence that show they did that," he said. "They actually won this case on a technicality, but that doesn't mean they didn't do it. Had we gone to trial, we had substantial evidence that this, in fact, did happen."

Nowak said he was advised by his lawyer not to comment on the ruling, pending possible appeal. The defendants' lawyer, Richard Albright, could not be reached by press time.

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