

SUPREME COURT OF WISCONSIN
OFFICE OF LAWYER REGULATION

Public Reprimand With Consent

2018-OLR-8

Kristin Schrank
Attorney at Law

Kristin Schrank is a Wisconsin-licensed attorney, admitted to practice in 2009. From March 2010 until her resignation in October 2017, Schrank was employed as an Assistant District Attorney in the Milwaukee County District Attorney’s Office.

Schrank was assigned on-duty DA responsibilities for the week of July 14 – July 21, 2017, to include carrying a county-issued cell phone (the “Duty DA phone”) enabling the on-duty Assistant DA to answer questions and assist law enforcement during the non-business hours of the Milwaukee County DA’s Office.

On Sunday, July 16, 2017, Schrank was scheduled to work a bartending shift at a restaurant where she works part-time. Prior to her shift, Schrank asked Antoni Apollo (“Apollo”), a long-time friend, if he would take the Duty DA phone during her shift. Apollo agreed and took the Duty DA phone from Schrank at the restaurant. Although he had previously worked as an Assistant DA in the Milwaukee County DA’s Office, Apollo was unauthorized to carry and answer the Duty DA phone at that time.

On Sunday, July 16, 2017, officers from the Fox Point Police Department were involved in the arrest of a man for first offense operating while intoxicated and obstructing an officer. The man, who resisted arrest and was subsequently taken to a hospital for injuries, refused to consent to a blood draw. One of the Fox Point officers attempted to make contact with Schrank, whom

the officer knew to be the on-duty DA, but Apollo answered the call. Apollo advised the officer to obtain a search warrant for the arrested man's blood. Apollo represented himself as an intern in the Milwaukee County DA's Office, and provided the name of an actual former intern. The officer thereafter applied for and obtained a search warrant. The Fox Point Police Department narrative lists the former intern's name (that Apollo provided to the officer) as the source of advice.

The arrested man was cited for non-criminal first offense operating while intoxicated by the Village of Fox Point.

On July 19, 2017, the man was charged with misdemeanor obstructing an officer in Milwaukee County Circuit Court. A transcript of the initial appearance held July 19, 2017 in the matter shows that Schrank, who was then assigned to the Special Crimes Division (and thus would not typically handle an obstructing case), appeared in court for the sole purpose of moving to dismiss the criminal case. The motion was granted. Schrank provided no explanation to the court for the dismissal and reportedly left immediately after the dismissal with the case file.

When asked by the Fox Point Police Department Captain and Village Prosecutor about the source of advice (to the officer involved in the arrest), Schrank was not immediately forthcoming with Apollo's name. She eventually identified Apollo as the source of advice.

In mid-August 2017, the Milwaukee County DA's Office commenced a criminal investigation of Schrank. A district attorney from another county was appointed special prosecutor. In September 2017, Schrank was placed on administrative leave (and made aware that she was under criminal investigation).

On January 16, 2018, Schrank was charged with misdemeanor Attempted Misconduct in Public Office (Party to a Crime) contrary to sec. 946.12(3), 939.50(3)(i), 939.32, 939.05 Wis. Stats. in *State v. Schrank*, Milwaukee County case no. 2018CM238.

On February 1, 2018, pursuant to a no contest plea, Schrank was convicted of misdemeanor Attempted Misconduct in Public Office (Party to a Crime). Schrank was ordered to provide a DNA sample and pay the DNA surcharge. She was also ordered to pay a fine of \$500 inclusive of all applicable court costs (to include the DNA surcharge) within 120 days (06/01/18).

By engaging in conduct leading to a misdemeanor conviction of Attempted Misconduct in Public Office (Party to a Crime) in *State v. Schrank*, Milwaukee County case no. 2018CM238, Schrank violated SCR 20:8.4(b), which states, “It is professional misconduct for a lawyer to...commit a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects.”

By proceeding in the criminal case involving the man arrested by Fox Point Police, while compromised by her personal interests, Schrank violated SCR 20:1.7(a)(2), which states, “Except as provided in par. (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer’s responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.”

Schrank had no prior discipline.

In accordance with SCR 22.09(3), Attorney Schrank is hereby publicly reprimanded.

Dated this 27th day of October, 2018.

SUPREME COURT OF WISCONSIN

/s/

JAMES C. BOLL, JR., REFEREE