

LOCAL

Hennepin County Attorney dismisses rape case after senior prosecutor admitted to lying

A senior prosecutor is removed from cases pending a personnel investigation.

By Kim Hyatt (<https://www.startribune.com/kim-hyatt/6370466/>) Star Tribune |

JANUARY 9, 2023 — 1:49PM

Rape charges against a St. Paul man were dismissed Monday after a Hennepin County senior prosecutor admitted to lying over the contents of a note passed in court during his trial.

Marco Tulio Rivera Enamorado, 35, was accused of first-degree criminal sexual conduct for allegedly raping a 14-year-old girl in June 2019. Four days into his trial, newly elected Hennepin County Attorney Mary Moriarty dismissed the case because a veteran prosecutor, Catherine McEnroe, admitted to lying to the court.

"I am deeply remorseful and apologetic to the victim who will not have an opportunity for justice in the process of criminal prosecution," Moriarty said Monday in her first news conference since taking office last week. "Transparency is necessary for the public to have any trust in the possibility of justice."

McEnroe, a 31-year lawyer who has been with the Hennepin County Attorney's Office since 2013, declined to comment, as did her attorney Jeanette Bazis. The Minnesota Office of Lawyers Professional Responsibility director Susan Humiston confirmed Monday that it is investigating McEnroe.

Moriarty described McEnroe's admitted misconduct and what factored into the rare dismissal. She said that McEnroe is removed from cases pending an ongoing personnel investigation.

Hennepin County Judge Peter Cahill presided over the trial. Moriarty said that Cahill questioned a victim advocate from Moriarty's office who passed a note to McEnroe during trial on Friday when the alleged victim was testifying with her mother in the courtroom. Cahill had ordered that potential witnesses be barred from the courtroom until called to testify, and he was concerned the note violated that order.

The initial note said "venue?" which Moriarty said was a reminder for the prosecutor to establish that the alleged crime occurred in Hennepin County.

"While the note was not a violation ... and was not inappropriate in any way, the prosecutor lied to Judge Cahill about its content," Moriarty said.



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Hennepin County Attorney Mary Moriarty discussed the dismissal of a rape case Monday after a prosecutor was found to have lied in

Supervisors in the Hennepin County Attorney's Office were made aware of this after speaking to the victim advocate and Moriarty was notified immediately, she said. In a short hearing under questioning by Cahill, Moriarty said McEnroe "admitted to having intentionally lied to the court."

Instead of telling Cahill the note was a venue reminder, Moriarty said that McEnroe told Cahill that the note was instead a reminder to pronounce a name correctly. But Moriarty said that McEnroe then allegedly had the victim advocate change the note conforming to the lie she told the court.

"So it was inconsequential. She just needed to say, 'Judge the victim witness advocate was reminding me to establish a basic element of the offense. Here's the note.' And that would've put an end to it," Moriarty said.

Cahill ordered the defendant be released from custody and held a hearing Monday to address the incident, where the victim advocate testified as to what happened.

Cahill declined to comment and Enamorado's public defender, Kellen Dotson, did not respond to requests for comment.

Moriarty said prosecutors offered to file a joint motion with Dotson to move for a mistrial, but Dotson wanted to proceed with trial. Prosecutors cannot call for mistrial or "do-over" when their actions created the conditions for mistrial, Moriarty explained.

Because this was a serious case with complex evidence, Moriarty said that the office assessed options Friday and determined "that we were unable to secure a conviction."

"It is impossible to substitute a new attorney who is unfamiliar with the case," she said.

Enamorado, who had been held in the Hennepin County jail since April, was released from custody on Friday. The case cannot be refiled because it was dismissed with prejudice, meaning that the office cannot prosecute Enamorado on the rape allegation again.

Moriarty expressed her commitment to transparency and holding her office to basic ethical standards that were violated at the expense of a young victim now denied justice. She said the victim was "incredibly courageous in testifying in this case."

"I'm deeply disappointed that we can't go forward in this prosecution," she said.

"This conduct is an extraordinary breach of the public trust. Prosecutorial misconduct jeopardizes successful prosecution of criminal cases and compromises public safety. This conduct falls well below the most basic expectations of professional conduct."

Kim Hyatt reports on Hennepin County Courts. She previously covered the western and northern metro suburbs of the Twin Cities.

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