



# **ERIE COUNTY DISTRICT ATTORNEY'S OFFICE**

**FRANK A. SEDITA, III, DISTRICT ATTORNEY**

**FOR IMMEDIATE RELEASE**

**NOVEMBER 5, 2015**

Erie County District Attorney Frank A. Sedita, III announces the following.

The Town of Hamburg Police Department and the Office of the Erie County District Attorney have conducted an exhaustive investigation over the course of the past three months regarding allegations made by a 21 year-old woman that 26 year-old Patrick Kane raped her on his bed. The investigative findings include the following:

- There are significant material inconsistencies between the complainant's accounts and those of other witnesses.
- The DNA results lend no corroboration whatsoever to the complainant's claim of penetration, a required element of proof for a rape charge.
- The physical evidence and the forensic evidence, when viewed in tandem, tend to contradict the complainant's claim that she was raped on Kane's bed.
- Although Kane has exercised his constitutional right to remain silent (which prohibits questioning by law enforcement), he has made no known incriminating statements to any civilian, nor has he engaged in any conduct consistent with a consciousness of guilt.

Additionally, the complainant, after consultation with her attorney, has decided that she does not wish to go forward with a criminal prosecution. She has recently signed what is commonly referred to as a "Non-Prosecution



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Affidavit” that states, in relevant part: “That after fully discussing all the circumstances with my attorney, I have decided I do not wish to criminally prosecute the charges which stem out of this investigation. I do so of my own free will and without any promises or compensation.”

A complainant’s willingness or reluctance to go forward is an important factor in determining whether a criminal prosecution, brought by this office on behalf of the People of the State of New York, will go forward. It is not, however, decisive. In other words, a complainant’s allegations, standing alone, do not trigger a criminal prosecution; nor does a complainant’s wish to withdraw charges, standing alone, determine whether a criminal case will be terminated.

Our prosecution standard is proof-based and has been stated on many occasions: consistent with the discretion afforded to the District Attorney under the law, we prosecute when the credible evidence, likely admissible in court, proves a crime was committed and proves the accused committed it.

The totality of the credible evidence -- the proof -- does not sufficiently substantiate the complainant’s allegation that she was raped by Patrick Kane and this so-called “case” is rife with reasonable doubt. Accordingly, the Office of the Erie County District Attorney will not present this matter to an Erie County Grand Jury.

A confidential correspondence has been sent to the Town Hamburg Police Chief (with copies forwarded to legal counsel for the complainant and Mr. Kane), setting forth in greater detail the investigative findings and the reasons for the decision not to criminally prosecute this matter.

The District Attorney will not be holding a press conference.