

# Law Office of Rachel M. Baird

Stonegate Professional Building  
379 Prospect Street  
Torrington CT 06790-5238

Tel: 860.626.9991/Fax: 860.626.9992  
Toll free: 866.279.6402

Rachel M. Baird, Attorney  
Web: RachelBairdLaw.com

August 6, 2012

David I. Cohen, State's Attorney  
Judicial District of Stamford-Norwalk  
Office of the State's Attorney  
123 Hoyt St  
Stamford CT 06905

**Re: State of Connecticut v. Duane T. Doutel**

Dear Mr. Cohen:

Thank you for your August 2, 2012,<sup>1</sup> response to my July 16, 2012, request<sup>2</sup> filed with Chief State's Attorney Kevin T. Kane<sup>3</sup> requesting inquiry into potential violations of Rule 3.1 of the Professional Rules of Conduct<sup>4</sup> in the prosecution of a Threatening in the Second Degree charge by original Information against my client Duane T. Doutel ("Mr. Doutel"), the prosecution of a Harassment in the Second Degree charge by Substitute Information in that same matter, and the prosecution, again in the same matter, of a Creating a Public Disturbance charge by Second Substitute Information.

Since my letter dated July 16, 2012, to Chief State's Attorney Kane, and, as you note in your letter, the charge of Creating a Public Disturbance against Mr. Doutel was dismissed on July 30, 2012, ending the eighteen-month prosecution against Mr. Doutel that cost Mr. Doutel, the Judicial Branch, the Division of Criminal Justice, and therefore ultimately the taxpayers of Connecticut funds that Mr. Doutel and his wife could not afford to spend and that, it is my understanding, the State of Connecticut cannot afford to waste.

For the record, as there was no official record created in the magistrate's courtroom on July 30, 2012, when Mr. Doutel's case was dismissed:

Your office filed a Second Substitute Information over my objection on July 5, 2012, alleging the infraction of Creating a Public Disturbance. The court set July 30, 2012, as a trial date. In preparation for trial and in reliance upon your office's representation that it would pursue the charge on July 30, 2012, I subpoenaed three civilian witnesses, one of whom is a physician, and three Norwalk Police Department officers. I prepared for trial. Mr. Doutel prepared for trial. Three civilian witnesses and five police officers understood they were under subpoena to appear for trial on July 30, 2012.

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<sup>1</sup> Letter from David I. Cohen to Rachel M. Baird enclosed.

<sup>2</sup> Letter from Rachel M. Baird to Kevin T. Kane enclosed.

<sup>3</sup> Letter from Kevin T. Kane to Rachel M. Baird enclosed.

<sup>4</sup> Rule 3.1 of the Professional Rules of Conduct provides: "A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established."

I appeared for trial on July 30, 2012. Mr. Doutel appeared for trial on July 30, 2012. The police officers appeared for trial on July 30, 2012. I observed at least one of the civilian witnesses in the courtroom on July 30, 2012. I received no notice between July 5, 2012, and July 30, 2012, that the state did not intend to proceed to trial on July 30, 2012.

Your office called the case on July 30, 2012, and entered, without explanation, a *nolle prosequi*. I demanded a dismissal. The magistrate asked me why. I responded that Mr. Doutel was innocent. The magistrate informed me that my refusal to accept a *nolle prosequi* would necessitate a trial. I concurred and indicated the defense was ready to proceed. Your office, without explanation for the change in its position after eighteen months of prosecution, consented to the dismissal. Your office, after eighteen months of prosecution, consented to the return of the firearms seized as "evidence" by the Norwalk Police Department. The protective order and temporary orders sought by your office were dissolved with the dismissal of the case. During the course of the eighteen-month prosecution there was absolutely no change in the facts or posture of the case meriting your office's four-fold change in position from Threatening to Harassment to Creating a Public Disturbance to Dismissal.

Mr. Doutel is a Vietnam veteran who served his country in defense of the principles he once believed defined the United States of America. One of these principles is the presumption of innocence, a presumption that never left Mr. Doutel and one he was willing to fight to maintain at great personal sacrifice. Your comment that you are "baffled" that "a defense attorney would complain when charges against a client are reduced to an infraction" when Mr. Doutel maintained his innocence and the state never proved otherwise baffles me. My request to Chief Kane was not a complaint about the charge but a request for an inquiry based on your office's prosecution absent probable cause, a fact that was proven on July 30, 2012, when your office did not oppose dismissal of the case. As a condition of the *nolle prosequi* and consent to dismissal your office did not even ask Mr. Doutel to admit there was probable cause for the arrest, an admission that Mr. Doutel would have rejected, but nonetheless such a request by your office would have at least shown some belief that Officer Jared Zwickler, who was called by me and present in court on July 30, 2012, to testify, is not liable for false arrest.

Sincerely,



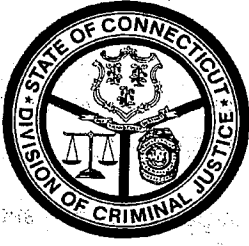
Rachel M. Baird, Attorney

Enclosures

c: Kevin T. Kane, Chief State's Attorney  
Division of Criminal Justice  
Office of the Chief's State's Attorney  
300 Corporate Pl  
Rocky Hill CT 06067

Thomas E. Kulhawik, Chief  
Norwalk Police Department  
1 Monroe St  
Norwalk CT 06854

M. Jeffrey Spahr  
Deputy Corporation Counsel  
City of Norwalk  
125 East Ave  
Norwalk CT 06854



# State of Connecticut

DIVISION OF CRIMINAL JUSTICE

OFFICE OF THE STATE'S ATTORNEY  
JUDICIAL DISTRICT OF STAMFORD-NORWALK

123 HOYT STREET  
STAMFORD, CT 06905  
TELEPHONE: (203) 965-5215  
FAX: (203) 965-5791

DAVID I. COHEN  
STATE'S ATTORNEY

August 2, 2012

Attorney Rachel M. Baird  
Stonegate Professional Building  
379 Prospect Street  
Torrington, CT 06790-5238

Re: State v. Doutel.

Dear Attorney Baird,

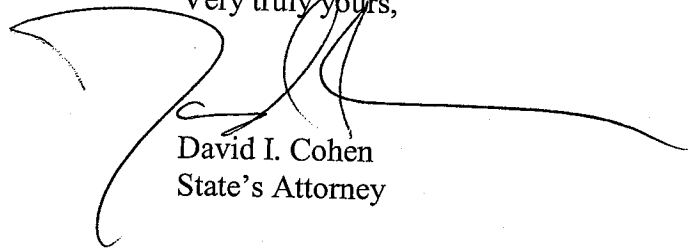
Your complaint concerning the handling of the above matter by the State's Attorney's Office at GA#20 has been referred to me for review.

I have thoroughly read through your complaint and the accompanying material which you submitted. Frankly, it is unclear to me what is the basis of your complaint under Rule 3.1 of the Rules of Professional Conduct. From the materials you submitted, it appears that all actions of the State's Attorney's office were well within their discretion and were upheld by the rulings of both of the Superior Court judges who heard your complaints. It is further baffling that a defense attorney would complain when charges against a client are reduced to an infraction. I understand that even that infraction was eventually dismissed.

Although I can understand your frustration with the fact that the judiciary consistently rejected your claims, I do not see that there was a 3.1 violation by any member of this office.

Thank you for bringing this matter to my attention.

Very truly yours,



David I. Cohen  
State's Attorney

c: CSA Kevin Kane  
Sup.ASA Suzanne Vieux



KEVIN T. KANE  
CHIEF STATE'S ATTORNEY

*State of Connecticut*  
Division of Criminal Justice

OFFICE OF  
THE CHIEF STATE'S ATTORNEY

300 CORPORATE PLACE  
ROCKY HILL, CONNECTICUT 06067  
PHONE (860) 258-5800  
FAX (860) 258-5858

July 26, 2012

Attorney Rachel M. Baird  
Stonegate Professional Building  
379 Prospect Street  
Torrington, Connecticut 06790-5238

Re: State v. Duane Doutel, Docket No. S20N-CR11-0128328-S

Dear Attorney Baird,

I received your complaint on July 18, 2012, and have referred it to State's Attorney David Cohen who is the State's Attorney for the Stamford-Norwalk Judicial District.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kevin T. Kane", is written over a light blue horizontal line.

KEVIN T. KANE  
CHIEF STATE'S ATTORNEY

KTK/md

c: David I. Cohen, State's Attorney

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July 16, 2012

Kevin T. Kane, Chief State's Attorney  
Division of Criminal Justice  
Office of the Chief's State's Attorney  
300 Corporate Pl  
Rocky Hill CT 06067

**Re: State v. Duane Doutel, Docket No. S20N-CR11-0128328-S**

Dear Attorney Kane:

I represent the Defendant Duane Doutel in the above-referenced matter pending in the Judicial District of Stamford/Norwalk at G.A. #20.

For the reasons stated in the enclosed memorandum and its supporting exhibits, I am requesting inquiry into potential violations of Rule 3.1 of the Professional Rules of Conduct in the prosecution of a Threatening in the Second Degree charge by original Information, the prosecution of a Harassment in the Second Degree charge by Substitute Information, and the current prosecution in the same matter of a Creating a Public Disturbance charge by Second Substitute Information.

Sincerely,

Rachel M. Baird, Attorney

Enclosure