

## Tamara McAnally Seeks Compensation From Sex Hunting Prosecutor After Fraud Conviction Is Overturned

Tamara McAnally's 2004 fraud conviction was overturned in 2011 based in part on a lack of impartiality by San Diego County deputy district attorney Ernest (Ernie) Marugg for pursuing a sexual relationship with her.

McAnally's husband Jon was a construction contractor in San Diego County, and in 2003 they were both indicted for workers' compensation insurance fraud. They were charged with classifying workers on the payroll to lower their insurance premiums with the State Compensation Insurance Fund.

The McAnally's insisted they didn't do anything illegal, but their lawyer told them that if they didn't take a plea bargain the prosecution would recommend a prison sentence if they went to trial and were convicted. So on the advice of counsel she and her husband pled guilty in 2004 to one count of conspiracy and the judge sentenced them to probation and to pay the \$412,096 the state claimed was owed. Their prosecutor was deputy DA Marugg.

McAnally wanted to get a job as a mortgage broker but she couldn't get licensed because of her felony conviction. In 2005 she contacted Marugg to find out if the DA's Office would oppose a motion to have her conviction reduced to a misdemeanor. He said he wouldn't, and the court granted her motion to reduce her conviction to a misdemeanor.

In 2006 Marugg began contacting McAnally that he wanted to have a sexual relationship with her. Although McAnally refused all his overtures, Marugg pursued her for years. In a 2009 email he wrote: "I am sorry you are having so much trouble. It makes me feel guilty for filing charges against you. I wish I had a time machine and could straighten all this out."

In November 2009, McAnally received a phone call from Kim Alvarez, another woman Marugg had prosecuted for fraud. Alvarez told McAnally that after her conviction Marugg approached her for a romantic relationship. Alvarez and Marugg began living together in 2009, and in 2010 they married.

McAnally hired a lawyer and she filed a



Tamara McAnally in Nov 2011. (Charlie Neuman, SD *Union-Tribune*)

complaint with the D.A.'s Office against Marugg for his conduct of pursuing romantic relationships with women he prosecuted.

Marugg retired a month later in September 2010. The DA's Office has not released information about how it resolved McAnally's complaint. McAnally then filed a motion for a new trial based on her factual innocence. She alleged that Marugg lacked impartiality in prosecuting her, that the evidence was flawed that Marugg presented to the grand jury that indicted her, and that her lawyer had provided ineffective assistance of counsel. Her motion was granted in 2011 by San Diego County Superior Court Judge David Danielsen who concluded, there were "substantial irregularities" in the case and that Marugg "obtained her conviction as the result of his failure to discharge ethical obligations."

On November 2, 2011 McAnally and her husband Jon filed a claim for money damages that named San Diego County, the District Attorney's Office, Marugg and his supervisors as defendants. The claim alleged that Marugg pursued romantic relationships with at least half-a-dozen women he prosecuted, and that in exchange for sex he offered to reduce or modify their sentences.

McAnally's claim was denied several weeks later, and on November 22, 2011 she filed a federal civil rights lawsuit in San Diego that named as defendants: Kathey Bradley, Dominic Dugo, San Diego County DA Bonnie M. Dumanis, David Lattuca, Alexander Lutzi, Ernest Marugg, San Diego County, and the State Compensation Insurance Fund.

McAnally's lawyer, Donnie Cox, told the San Diego *Union-Tribune* that Marugg quickly retired after the complaint was filed in August 2010 before a formal hearing could be held, and Cox accused the DA's Office of covering-up Marugg's conduct of using his position as a prosecutor to try and pressure numerous women into a sexual relationship. Cox said of the DA's Office, "They swept this under the rug." Cox also said Marugg's supervisors knew what he was doing but did nothing to stop it because it could have jeopardized the money the DA's Office receives from insurance companies and the State Compensation Insurance Fund to pursue fraud cases.

Alvarez filed for divorce from Marugg in 2011, and in her declaration she stated that

Marugg told her he had long-term affairs with several defendants he prosecuted.

On February 25, 2013 the U.S. District Court judge granted the application for a settlement between the McAnallys', and Kathey Lowe (formerly Bradley) and the State Compensation Insurance Fund. According to the settlement documents filed with the court no compensation was paid to McAnally and the parties agreed to pay their own legal expenses. The lawsuit is still pending against the other defendants.

Sources:

[Prosecutor accused of affairs](#) with defendants, San Diego *Union-Tribune*, 2-13-2011.

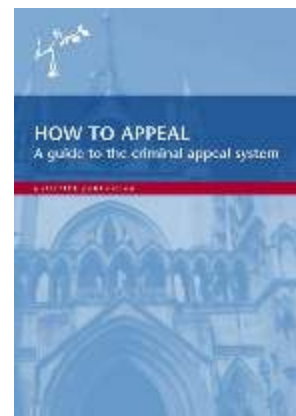
Tamara McAnally and Jon McAnally v. Kathey Bradley et al., U.S. Dist. Ct., Southern Dist. of Calif., No. 11-CV-2741W (KSC), 11-22-2011.

"Order Granting Application For Determination Of Good Faith Settlement," U.S. Dist. Ct., Southern Dist. of Calif., No. 11-CV-2741W (KSC), 2-25-2013

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