

May 29, 2019

**Via Electronic Mail**

President Bill Galvano  
Senator Kathleen Passidomo,  
Majority Leader  
Senator Audrey Gibson,  
Minority Leader  
Members, Senate Committee on Education  
Members, Senate Committee on Governmental  
Oversight and Accountability  
Senator Lizbeth Benacquisto  
Senator Lauren Book  
Senator Randolph Bracy  
Senator Oscar Braynon, II  
Senator Gary M. Farmer, Jr  
Senator Linda Stewart

Speaker Jose R. Oliva  
Rep. Dane Eagle, Majority Leader  
Rep. Kionne L. McGhee, Minority Leader  
Members, House Education & Career  
Readiness Subcommittee  
Rep. Anna Eskamani  
Rep. Heather Fitzenhagen

Florida House of Representatives  
402 South Monroe Street  
Tallahassee, Florida 32399

The Florida Senate  
404 South Monroe Street  
Tallahassee, Florida 32399

Re: Efforts to Florida A&M University to Violate the Privacy Rights of Rape Victims and Discourage Reporting of Sex Crimes

*S.B. v. Florida Agricultural and Mechanical University Board of Trustees, In the United States District Court for the Northern District of Florida, Case No.: 4:16cv613-MW-CAS*

Dear Senators and Representatives:

On behalf of our client, S.B., a former student at Florida A&M University (FAMU), we are writing to you with grave concerns over repeated and ongoing efforts by that state university to expose her identity as a rape victim to the public, risking mental health harm to her and risking placing a chilling effect on the willingness of future rape victims to report such crimes. Twice a federal Judge has denied FAMU's request to reveal her name in public; they are now trying a third time in an appellate court. This presents a serious public safety issue in our view. These concerns arise in the context of adversarial litigation, but we do not believe that FAMU has any

legitimate litigation reason to expose S.B.'s identity in public; in fact, FAMU has articulated no such reason to the Court, as public record reflects. We see FAMU's efforts as bad faith litigation tactics that recklessly disregard the obvious risk of harm. Each recipient of this letter was chosen based on your leadership positions involving oversight of the state public education system and/or prior efforts to combat sex crimes in our society and support survivors.

The following are the essential facts underlying our concerns; these facts are confirmed in the public record of the pending litigation identified above:

1. S.B. attended FAMU her first two years as an undergraduate student.
2. During those two years, she reported to authorities being raped three times by FAMU students, each time off-campus.
3. During deposition testimony, FAMU authorities admitted the following:
  - a. The first assailant was a FAMU student but was never investigated by the university, even though S.B. promptly reported the attack to FAMU police. FAMU police never attempted to locate him, but reported the complaint to FAMU's Title IX office, which did nothing. The assailant continued to attend classes and student activities until graduation. Our client saw him on campus regularly and had to avoid places and activities/clubs she knew he frequented. No action was taken to protect our client from being exposed to him.
  - b. The second assailant was on campus regularly before the attack and was permitted by FAMU police to be on campus after the attack, even though the FAMU police officer involved believed that our client was telling the truth. The officer did nothing to curtail his presence; in fact, he once greeted the assailant while on duty at a campus party. FAMU administration refused to take any action against him because, allegedly, he was not a student. S.B. saw him on campus regularly and attempted to avoid him by discontinuing participation in various student activities. During testimony in this case, every FAMU employee insisted they could do nothing about his presence on campus because he is not a student.
  - c. The third assailant, all agree, was a FAMU student. The assault occurred during a study session at S.B.'s apartment. FAMU student conduct authorities conducted an "investigation" that consisted only of interviewing the assailant and our client. No action was taken for six months to restrict the assailant's contact with our client on campus, during which time she continued to see him on campus and was fearful of what he might do. An on-campus restraining order was issued six months after her complaint, by which time she had already left FAMU to achieve a sense of safety. The official who issued the restraining order had no explanation for the delay and, in fact, was not aware that our client had already withdrawn from FAMU when the order was issued. The disciplinary hearing was held nine months after the complaint was filed, a delay that violated FAMU's own written standards. FAMU claims the

hearing was delayed at the assailant's request; however, he did not attend the hearing. Despite no longer being at FAMU, our client did attend by telephone. She was the only witness; thus, her testimony was unrefuted. She described forcible, vaginal rape. The committee asked many questions about why she drove the assailant home after the rape; she said she was afraid he would kill her if she did not comply. The panel found the rapist "not responsible".

4. Our client filed a Title IX lawsuit against FAMU for its failure to protect her from exposure to the rapists. The lawsuit does not assert that FAMU caused or could have prevented the rapes. S.B. filed her suit using only her initials, invoking her right under Florida law to anonymity as a rape victim. FAMU did not object for the first ten months of the litigation; in fact, earlier FAMU filed a document that inadvertently contained her full name and, on our request, promptly filed a motion to seal the document, which the Judge granted.

5. Some ten months into the litigation (July 2017) FAMU filed a motion to dismiss asserting that our client must reveal her real name publicly in order to maintain her claims. The university asserted that "as a courtesy" it had allowed her to continue anonymously but articulated no prejudice to its interests if S.B. continued to do so and asserted no change in circumstances. We insisted on S.B.'s rights under Florida law to keep her status as a rape victim confidential and noted that FAMU had, without warning, filed documents with the court revealing her identity and private health information, such as her prescription medications. We asserted that FAMU's action was in violation of its own published "Victim Survivor Rights" in its Student Code of Conduct, its Title IX policies and its Clery Act reports, each of which assure confidentiality to those who report sexual assault.

6. Subsequent to FAMU filing its motion to dismiss, but before the Court ruled on the motion, FAMU's Title IX Coordinator admitted in deposition testimony that exposing a rape survivor's identity was contrary to FAMU's published policies, could inflict mental health harm on the survivor and could have a chilling effect on the willingness of subsequent victims to report sex crimes. On February 5, 2018, the Judge ruled that S.B. could proceed anonymously, finding that there was "absolutely no public interest in outing a rape victim in a Title IX case." The Judge sealed all documents FAMU filed with the Court that revealed S.B.'s identity.

7. Despite that ruling, on June 8, 2018, FAMU filed another motion asserting that our client's name must be revealed publicly during the case's trial. On March 27, 2019, the Judge again denied FAMU's request to expose S.B.'s identity. The Judge expressly found that, "FAMU does not seem to acknowledge the severity, seriousness, sensitivity, or personal nature of rape allegations."

8. On April 26, 2019, FAMU commenced a third attempt to expose our client's identity to the public by filing an appeal of the March 27, 2019, Order.

We and our client believe that FAMU's persistent actions to try to expose her identity as a rape victim to the public:

1. Are strictly intended to intimidate our client into either dropping her lawsuit or settling for a nominal amount.
2. Knowingly risk inflicting undue mental health harm on her, as their own Title IX administrator admits could happen.
3. Knowingly risk placing a chilling effect on the willingness of existing and future FAMU students to report any sexual assault that they may suffer; again, as their own Title IX administrator admits could happen. (We feel the risk could extend beyond FAMU to other state colleges and universities.)
4. Violates both the intent of Florida law and public policy, and the written promises FAMU made to our client and other sex crime survivors, that FAMU would protect their identities from public disclosure.

We ask that you intervene to ensure that these risks and infliction of harm not be committed by a state university. To be clear, we are not asking for your intervention with respect to the merits of the litigation; a jury will decide if FAMU violated Title IX. But we are asking that you investigate FAMU's attempts to expose a rape victim's identity in public and violate the prior written assurances to her and her peers that their privacy will be respected and protected, consistent with Florida law. And we ask that all efforts be made to ensure that any future rape victims can report sex crimes without fear that, one day, FAMU or other state institutions will take steps to strip them of their privacy as rape survivors.

We stress the importance of public safety. With an epidemic of sex crimes against young people, coupled with the recidivist behavior of many sex criminals, Florida can only hope to reduce such crimes by encouraging disclosure and investigations. Survivors who find the courage to report must be empowered, always, to control their privacy in the interest of their mental health. They should not have to choose between that and pursuing justice. Far too many survivors of sexual assault suffer grave mental health harm from loss of their privacy, up to and including self-destructive behavior. Thank you for your attention to this matter.

Sincerely,



Michael Dolce, Esq.



Takisha Richardson, Esq.