

# Wrongfully Convicted Ex-Judge Dismisses Final Prosecutor From Malicious-Prosecution Litigation

Former 380th District Judge Suzanne Wooten, was left the bench after her 2011 wrongful conviction, has dismissed ex-prosecutor Christopher Milner from her malicious prosecution lawsuit.

By [Angela Morris](https://www.law.com/texaslawyer/author/profile/Angela-Morris/) (https://www.law.com/texaslawyer/author/profile/Angela-Morris/) | November 09, 2020 at 03:02 PM



Suzanne Wooten, a McKinney, TX, solo practitioner. Courtesy photo

A former Dallas judge—who was wrongfully convicted and later sued the government and prosecutors for malicious prosecution—has dismissed one of the defendants in her lawsuit.

As a result, former Collin County Assistant District Attorney Christopher Milner is no longer part of the litigation, but plaintiff Suzanne Wooten, former judge of Collin County's 380th District Court, will continue pursuing her claims against the county itself.

"It's nothing else, rather than strategy, to get this case moving forward. We will get the deposition of Mr. Milner sooner this way," said Scott Palmer, who represents Wooten.

Wooten dismissed Milner on Friday because the assistant district attorney was planning to file a second interlocutory appeal to the U.S. Court of Appeals for the Fifth Circuit, said a Nov. 6 [notice of voluntary dismissal \(https://drive.google.com/file/d/1p-SrXjCQvHghhF3EztdkcBEWakjTqX2U/view?usp=sharing\)](https://drive.google.com/file/d/1p-SrXjCQvHghhF3EztdkcBEWakjTqX2U/view?usp=sharing) in *Wooten v. Roach*, pending in the U.S. District Court for the Eastern District of Texas in Sherman.

"Although plaintiff stands by the allegations raised against defendant Milner in this case and will continue to urge them in relation to her Monell claim against Collin County, Judge Wooten now files this notice of voluntary dismissal of claims against Defendant Milner so that she may move forward with discovery and prosecution of

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her case without further delay," said the dismissal notice.

But Milner's attorney, Bob Davis, said that his dismissal was inevitable.

"Defendant Milner has consistently asserted he acted in good faith and the prosecution which he was not involved in at its final stages was founded upon probable cause," said Davis, partner in Matthews Shiels Knott Eden Davis & Beanland in Dallas. "Milner was involved in the very early, early stages. When there was an order appointing a special prosecutor, he was taken out of the case. He didn't have anything to do with the ultimate decisions about her charges or prosecution—or certainly not her trial."

But Palmer, owner of Scott H. Palmer in Dallas, wrote in a statement that he believes Milner's arguments that the assistant district attorney had immunity would not have succeeded.

"The dismissal of claims against Mr. Milner should not be viewed as clearing him of wrongdoing. Quite the contrary, Mr. Milner's actions are at the heart of the allegations of abuse by the Collin County District Attorney's Office," Palmer said. "Through discovery, Judge Wooten will bring to light the wrongdoing and gross misdeeds that have been hidden from public view for over a decade."

Wooten's nine felonies alleged she accepted bribes in the form of campaign contributions during her 2008 election to the bench. Wooten was acquitted in 2017 when a judge found the allegations against her, even if they were not true, were simply not a crime in Texas.

Earlier in the litigation, the **[Fifth Circuit dismissed three other defendants \(https://www.law.com/texaslawyer/2020/07/07/this-ex-judge-was-wrongfully-convicted-but-she-cant-touch-3-of-4-texas-prosecutors-behind-her-indictment/\)](https://www.law.com/texaslawyer/2020/07/07/this-ex-judge-was-wrongfully-convicted-but-she-cant-touch-3-of-4-texas-prosecutors-behind-her-indictment/)** because it found they had prosecutorial immunity. In July, the Fifth Circuit dismissed the case against Gov. Greg Abbott—who was sued for activities years ago when he was still the Texas attorney general—former Assistant Attorney General Harry White, who prosecuted Wooten, and former Collin County District Attorney John Roach Sr.

But the Fifth Circuit allowed Wooten to keep pursuing claims against Milner, who investigated Wooten from 2008 to 2010, because it found that prosecutorial immunity wouldn't protect his actions that were more like a law enforcement officer rather than a prosecutor.

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The litigation is now proceeding with Wooten defending her remaining claim against a motion to dismiss by Collin County.

Davis, who also represents the county, said, "The county will continue to diligently defend against former Judge Wooten's claims."

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