

Justice deferred | Little-known law brings justice



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Suzanne Alton sat next to her attorney at a long, low table at the front of a courtroom on Harrison Street, more terrified than she'd ever been. She gazed straight ahead, determined not to look at the man sitting 15 feet away at an identical table, a man she'd last seen the night he raped her. Disappointed by the criminal justice system and left to sue her attacker under a little-known Illinois law, finally, after two and a half years, Alton, 27, was about to get her day in court.

It started with a phone call. Then 24, Alton was working as a paralegal at a downtown law firm when she received a call from a former client whose arbitration case she'd worked on a year earlier. He said he was coming into town on business and wanted recommendations of things to do. He responded to her suggestions with an invitation to dinner. Thinking he might prove a valuable professional contact, Alton agreed. "At the time," she says, "it seemed like an innocent enough request."

They met at a Rosemont steakhouse on March 8, 2008, a Saturday, and after dinner headed into the city to hit a couple of nightclubs. Alton doesn't remember returning to the man's suburban hotel room. What she does remember, according to police and court records, is waking up from an unconscious state to him raping her before she passed out again.

When Alton woke the next morning, she grabbed her clothes, drove to her parents' house where she was living at the time, and hid in her room all day, crying. On Monday, she showed up for work as usual. "After you're raped, you don't know what to do, so you do what you always do," she says. She sat down at her desk, turned on her computer and thought, Oh, God, I can't do this. She dialed her human resources director and said, "I don't know how to tell you this, but I've just been raped. ...I have to go see my doctor." Her HR director agreed to drive her to her gynecologist, who then referred her to Northwestern Hospital. Listening to Alton's story in the car, the director asked whether Alton had given consent but just forgot about it the next day. "She meant well," Alton says. "You don't have to be a villain to say nasty things."

A doctor in the emergency room collected a rape kit. Then, a police officer and detective arrived; the interview that followed was decidedly unlike *Law & Order: SVU*. The detective couldn't understand how her attacker, who held a doctorate in economics, could be a "Dr." without a medical degree, Alton recalls. Then, as Alton named the clubs they'd visited, the detective and the officer glibly chimed in, saying they'd been to the same spots.

As the week blurred by, the detective left a voice mail saying he'd interviewed her attacker and there had been "discrepancies" between her story and his. From the detective's tone she got the impression he didn't believe her. *Maybe I'd heal faster if I let the whole thing go*, she thought. She called back and said she didn't want to press charges.

“Yeah, that’s kind of what I figured,” the detective replied, and hung up, as she recounts it.

At home, relations with her parents deteriorated. “When your baby has a fever, you know what to do,” says Suzanne’s mother, Cheryl Alton. “But when your daughter is sexually assaulted—you’re never prepared for that.” Cheryl didn’t recognize the surly, tearful stranger her daughter had become, and her assumption that prying would cause further damage only intensified Alton’s feeling that her parents were in denial. After two months of “walking on eggshells,” Cheryl says she told her daughter she should look for an apartment in the city, closer to work. Though her mother didn’t intend it, Alton heard one message: Get out. So she did—abruptly, and without telling her parents where she would be living.

The fallout continued for months. Alton gained 40 pounds, and her boyfriend dumped her. Some friends proved unconsciously cutting. One was convinced she just needed to tell the police and her rapist would go to prison for life. (In Illinois, a rape conviction carries a sentence of four to 15 years.) Another asked her, “Didn’t you know he was married?” She was afraid to drink, afraid to be alone with men. “It was horrific,” Alton says. “I felt like...I was kicked by the police and I was kicked by my family. So the idea that people are supposed to be supportive? It’s just not true. I had so little faith in people because everyone left me. Everyone.”

Seven months after the attack, Alton started volunteering as a rape crisis counselor. At a training session she met Kaethe Morris Hoffer, legal director at the Chicago Alliance Against Sexual Exploitation and an advocate of suing rapists in civil court. Civil litigation, Hoffer told Alton, is an underused tool in the fight against rape. Too often police and prosecutors’ misconceptions about the crime result in a lack of criminal charges. Civil courts potentially could offer what the criminal justice system so often failed to provide: consequences for rapists.

In Illinois, rape victims can file a petition for what’s called a civil no-contact order. Similar to a domestic-violence order of protection, it mandates the offender not contact the victim in any way, Hoffer says. Violating the order constitutes a misdemeanor, and after a second violation, a felony. But unlike a domestic-violence order, a victim can apply for it even if no relationship exists between her and the offender. Moreover, to obtain one, a judge must rule that “a preponderance of the evidence” indicates the sexual assault occurred. It’s a lower burden of proof than in the criminal courts, which require proof of guilt “beyond a reasonable doubt.” But it is still a judicial ruling on the facts of a case. It is a day in court.

Civil no-contact orders are not widely used. Since the Illinois General Assembly created the orders in 2004, more than 34,000 alleged rapes have been reported to the police, but state courts awarded just 877 no-contact orders. Illinois is one of only 17 states where protection orders for rape victims even exist. Alton retained Hoffer, and in January 2009 they approached the Cook County State’s Attorney about reopening the criminal case. The office refused. Alton says the supervising attorney she met with told her because she didn’t press charges initially, too much time had elapsed, which would affect her credibility with a jury.

Tandra Simonton, a spokeswoman for the State's Attorney's office, says the underlying reason for not prosecuting was a lack of corroboration and no witnesses. In an e-mail, Simonton says, "While we sympathize with Ms. Alton, there was insufficient evidence to pursue criminal charges."

So Alton and Hoffer filed a petition for the no-contact order in March and were granted a hearing on July 20. The day of the hearing, Alton and her mother, now reconciled, waited in an antechamber scattered with tissue boxes. She felt sick. Soon, Hoffer led her back into the fluorescent glare of the court. The doctor who treated her in the ER testified first. Alton took the stand next to lay out the evening's events. On cross-examination, the defense attorney asked how many drinks she'd had that night. Quite a few, she replied. Alton's mother recounted her daughter's stricken behavior the day after. Then it was her attacker's turn. The witness box sat directly across from Alton, so for the first time that day, she looked straight at him. Suddenly, he "wasn't a monster anymore," she says. "He was pathetic."

The man's testimony was "delusional," Alton says, all about a younger woman coming on to him, then lashing out after learning he was married, a story he'd never told police. After closing statements, the judge said she'd return after 20 minutes of deliberation. Forty-five minutes passed. Alton began to panic. The judge is going to rule against me because she doesn't want to accuse a man of being a rapist on paper, she thought.

When the judge returned, she started to deliver her verdict by describing the case as two people who had dinner and drinks, but whose stories diverge after that. As she went on to describe the rape, Alton knew she'd won, even before the judge announced that "based upon the evidence, a civil no-contact order is granted." It was a magnificent moment, Alton says.

Still, life is not the same. Alton, who plans to attend law school next year, trusts people less. But she no longer sees herself as a victim. She's survived, moved on. And the ultimate satisfaction of winning the civil no-contact order is how the judgment has answered the HR director's well-meaning question, the detective's snide assessment, and her friends' and family's hurtful questions and comments. The victory means "I am no longer responsible," she says. "It is absolutely set in stone, it is public, that he is responsible for what happened."