

THE MORNING CALL

Steve Esack and Peter Hall

Of The Morning Call

8/17/16

Kane's reign ends today

HARRISBURG — Kathleen Kane charged into state government 1,381 days ago as a reformer unbound by the political establishment she railed against in her successful campaign to become the state's first woman elected attorney general.

On Wednesday, she slinks away, leaving behind her once bright political future and a resignation letter after abusing the power voters entrusted in her as the state's top law enforcement officer.

"I have been honored to serve the people of Pennsylvania and I wish them health and safety in all their days," Kane said Tuesday in a two-sentence resignation.

The announcement came a day after a jury of six men and six women convicted her on two felony counts of perjury and seven lesser charges of lying and abusing her power about a grand jury secrets leak she orchestrated to embarrass a rival.

It also came after Montgomery County Judge Wendy Demchick-Alloy set an Oct. 24 sentencing date for the Scranton-area Democrat.

The state constitution says public officials must resign after being convicted of a crime, but state court rulings have pushed resignations back until sentencing. Kane negated that with her decision to quit after months of refusing to heed such advice from politicians.

Kane lawyers vow appeal, but offer few details

In a statement, Gov. Tom Wolf, a Democrat, said Kane is making the right call.

"What has transpired with Attorney General Kane is unfortunate," Wolf said. "Her decision to resign is the right one, and will allow the people of Pennsylvania to finally move on."

The Commonwealth Attorneys Act states that the first deputy slides into the attorney general's post if the elected or appointed official resigns or becomes incapacitated. Bruce Castor is the first deputy, and at a news conference Tuesday in the agency's Harrisburg headquarters he said he is ready to lead.

Kane replacement steps

Kane appointed Castor to the role of solicitor general in March to handle the agency's legal affairs. It was a new position that usurped the traditional role of the first deputy, and Castor became first deputy in July when Bruce Beemer quit to work for Wolf's administration.

Castor, a Republican candidate for attorney general in 2004, planned to be sworn into office on Wednesday, and said he'd like to hold a ceremonial swearing in for his elderly parents to witness.

"They've waited 12 years for this," Castor said.

They may not have a chance to witness it. Wolf has the power under the constitution to appoint a replacement with or without state Senate approval. Republicans who control the Senate seem to be working with him to see it happens.

"I have full faith and confidence in the employees of the Office of the Attorney General and know that they will continue to perform its most important functions, including protecting consumers and prosecuting criminals," Wolf said. "Moving forward, I will work with both Republicans and Democrats in the Senate regarding any potential appointment of an attorney general."

In a statement, Senate Majority Leader Jake Corman, R-Centre, said: "We look forward to working with the governor to choose the next attorney general. We will work to select someone who will begin the process of restoring the integrity of the office of the state's top prosecutor. In November, the voters will have the responsibility to continue that effort as they head to the ballot box."

Beemer, who is Wolf's inspector general and who testified against Kane, would be an easy, politically safe selection for the governor, said G. Terry Madonna, Franklin & Marshall College political science professor and pollster.

"They need leadership," Madonna said. "He is a guy generally supported by top leaders in the state."

During a nearly one-hour news conference, Castor made the pitch for himself keeping the job, saying he has worked to restore confidence and morale in the office and among citizens.

"The damage done to the office of attorney general is a loss of confidence the public, rightfully or wrongfully, had with the infighting going on with current and former prosecutors," Castor said.

If he is retained, Castor added, he would keep his active private law practice, in which he represents clients that include Centre County District Attorney Stacy Parks Miller, even though office policy dictates he cannot. Kane granted the policy waiver, Castor said, and he would stick to it.

Castor praised Kane for her leadership and legal acumen. He also said he never witnessed the "Dr. Jekyll and Mr. Hyde" descriptions of Kane he has seen in media stories as a vindictive leader who sought to award her friends and punish her enemies.

"I have not seen any effort associated with Attorney General Kane to seek retribution against anyone," Castor said, adding he had not determined whether to fire any employees implicated in wrongdoing in the trial or accused in civil lawsuits.

But Castor said he could decide to charge one of the Montgomery County prosecutors' chief witnesses against Kane.

Following the jury's verdict, the judge threatened to revoke Kane's bail if she or anyone associated with her retaliated against any trial witnesses.

"There is to be absolutely no retaliation against any witness in this case, either by your mouth or by your hand," Demchick-Alloy said. "If it comes to this court's attention that has happened, you will be incarcerated immediately."

But Castor said he does not believe the order applies to him or any of Kane's successors. Once Kane leaves the agency, Castor said, he has the legal right to determine if his office, pending court approval, has the ability to charge Kane's ex-political consultant, Josh Morrow, with lying under oath during a statewide grand jury. But Castor stressed he has not determined whether to launch that probe.

Jennifer Storm, the state-appointed victim advocate, said she does not think Castor is fit to lead the agency if he is looking to step into the case.

Storm also criticized Castor for not prosecuting entertainer Bill Cosby for allegedly drugging and sexually assaulting a woman while Castor was Montgomery County district attorney. The county's current district attorney is pursuing the Cosby case. Storm also criticized his decision as Kane's solicitor general not to appeal a state Superior Court ruling that dropped most charges against Penn State administrators accused of helping cover up Jerry Sandusky's child sex abuse crimes.

"He's been enshrined in controversy," Storm said. "With him in charge, there's no certainty of anything and victims deserve better."

Castor declined to respond to Storm's allegations at his news conference.

"I don't feel the need to respond," he said.

Tom Kline, who represented a number of people — in lawsuits against Penn State — who claimed Sandusky abused them, is not concerned about Castor leading the agency. Castor would be a short-term caretaker of the office and won't have time to influence the office's policies in the long term, he reasons.

"If he was going to be in for two years, people who care about victims' rights would be in an uproar," Kline said.

Jeff Lindy, a former federal prosecutor who represents clients under prosecution by the attorney general's office, said the new attorney general must be less political and stay out of the public eye. The

next attorney general should focus on managing the office and let the professional prosecutors do their jobs, he said.

"I would think job No. 1 for the person who is going to become attorney general is to make sure they are not going to be the story," Lindy said.

Voters will select a new attorney general on Nov. 8. The candidates are Republican John Rafferty and Democrat Josh Shapiro. The winner will be sworn into office on Jan. 17.