

Is D.A. in Duke rape trustworthy?

By Cash Michaels
Special to Sentinel-Voice
DURHAM, N.C. - Evidence.

That's what supporters of the alleged rape victim in the Duke lacrosse case haven't seen yet — a shred of evidence from Durham Police investigators or Durham District Attorney Mike Nifong, proving their case that over five months ago a brutal kidnapping and sodomy occurred.

While many in the African-American community still very much believe that, if not a sexual assault, "something" very wrong happened to the woman hired by Duke lacrosse team captains to dance exotically at their wild off-campus team party last March. There is also growing concern not only that Nifong may have crippled his own case with public pronouncements he couldn't back up, but may have actually known for some time he didn't have the strong evidence he needed to success-

fully prove his case in a court of law.

"I have not backed off from my initial assessment of the case," Nifong declared to the news media in his last press conference on July 28. "Obviously, there were some things we hoped we would have as evidence that we ended up not having."

That statement was a tacit admission, critics say, that in the aftermath of the prosecution's release, and media examination of, over 1,800 pages of discovery evidence to defense attorneys, Nifong may not be able to overcome the high standard of reasonable doubt he faces if the case indeed goes to trial.

In fact, that statement was part of an emerging and disturbing pattern in the case.

"It doesn't mean nothing happened; it just means nothing was left behind," Nifong told about 400 people gathered in the gymnasium of North Carolina Central University in Durham last April,

the day after the first set of DNA tests reportedly failed to show any sexual contact between the alleged victim and any of the over 40 lacrosse players at the party.

"This case is not over," Nifong assured the cheering, predominately Black audience, adding that in his 27 years as a prosecutor, he's proved rape cases long before there was DNA testing.

Still, NCCU students, concerned that the alleged victim, who also attends the historically Black university, may not get justice, were not convinced.

"He's not taking the case seriously," junior Kimberly Richardson, 21, said afterward. Another NCCU student, Erin Brown, agreed.

"[D.A. Nifong] basically sat himself up there and made himself look like a fool," Brown, also a junior, said. "I don't believe we should support him."

It was soon after that appearance that Nifong went before the first of two grand

juries and secured indictments against Duke lacrosse players Colin Finnerty, 19, of Garden City, NY; and Reade Seligmann, 20, of Essex Falls, N.J., for first-degree rape, first-degree sexual assault, and first-degree kidnapping.

"It had been my hope to be able to charge all three of the assailants at the same time, but the evidence available to me at this moment does not permit that," Nifong said in a statement shortly after.

The NAACP's North Carolina office, which early in the case made it known that it would be monitoring the investigation to make sure that it was fair to all sides, weighed in.

"The NAACP's aim is to follow the evidence as it unfolds, reporting it accurately and fairly, always seeking justice and rebuilding community," attorney Al McSurely, chair of the area's NAACP's Legal Redress Committee, said in a state-

ment in mid-April.

That same week, stories were flying that the alleged victim may have been slipped a "date rape" drug before she was allegedly assaulted.

Nifong seemed to indicate such to *Newsweek* magazine in its April 18 edition that the victim's "...impaired state was not necessarily voluntary."

"... If I had a witness who saw her right before this and she was not intoxicated, and then I had a witness who said that she was given a drink at the party and after taking a few sips of that drink acted in a particular way, that could be evidence of something other than intoxication — or at least other than voluntary intoxication?" Nifong rhetorically asked *Newsweek*.

The Durham District Attorney found himself steadily backtracking from that position when it was later publicly revealed that no toxicology tests were reportedly conducted at Duke Medical Center's emergency room when Durham police brought the alleged victim there, under the influence of an unknown agent, from the detox center.

Drawing blood to determine whether an alleged rape victim was indeed drugged is supposed to be routine procedure; and yet, the nurse on duty checked a box on the medical report indicating inexplicably that no toxicology tests were done in this case.

Nifong got that report, discovery evidence shows, in early April, so he had to know before he spoke to *Newsweek* that he couldn't prove the alleged victim was drugged, except by the compromised testimony of the second dancer, Kim Roberts Pittman.

No DNA evidence connection, no tox report... Nifong's case was being crippled more and more, and yet he continued to put on the best public face.

After all, he was in a three-way election to keep his job.

The day before the May primary, the New Black Panther Party, led by attorney Malik Zulu Shabazz, held a march and rally in Durham to express outrage over the case.

Shabazz also called a concerned Nifong personally, who asked the Black leader not to make trouble during his group's controversial visit.

During a standing-room-only rally at St. Joseph's A.M.E. Church on the eve of the primary election, Shabazz told the audience that he was convinced the Black alleged victim was beaten and raped by members of the predominately White Duke lacrosse team, and that Nifong had the evidence to prove it.

"Duke University is too powerful. If Seligmann and Finnerty were innocent of these crimes, the prosecutor here never would have had them indicted," Shabazz told the audience. "You don't mess with young men like that, unless you've got a case."

"That grand jury heard some serious, serious evidence."

However, even with that analysis, the New Black Panther Party leader was skeptical about the real possibility of justice for the alleged victim.

"He better get it right," warned Shabazz, referring to Nifong, vowing that the Panthers will follow the Duke case "gavel to gavel."

"This community will not be used by anyone."

Indictments against the third lacrosse rape suspect, Dave Evans, 23, of Bethesda, Md., would come only after Nifong's primary victory.

The Durham District Attorney was called at his office this week for comment, but he was not available. He (See Duke, Page 16)

Mom: Black kids sit in back of bus

COUSHATTA, La. (AP) - A Louisiana school district suspended a White bus driver while it investigates complaints that she ordered nine Black children to sit at the back of the bus.

No previous complaints have been lodged against the driver, who has worked several years for the Red River Parish school district, school Superintendent Kay Easley said Thursday. She refused to reveal the driver's name.

"I'm trying to get all this straight, and settled, so we can all move on," Easley said.

Two mothers, both Black, sparked the investigation with a complaint on Monday

that their children and the other Black children had been ordered to sit in two rows of seats in the rear of the bus.

"In all these years, I've never had a problem like this," said Janice Williams, whose four children ride public school buses.

One of her children, Jarvonica Williams, 16, said the bus driver allowed many White students to have seats all to themselves while some Blacks were forced to stand or sit in others' laps.

Iva Richmond, whose 14- and 15-year-old children were on the bus, said last Thursday that they previously had a Black bus driver,

but their bus assignment changed this year. When school started this month, the White driver told them she had assigned them seats, with the Black children at the back of the bus.

Richmond said she complained to a local principal, who told the driver that if any children were assigned to seats, all would have to be.

Early last week, the driver assigned Black students to two seats in the back of the bus, Richmond said.

"All nine children were assigned to two seats in the back of the bus and the older ones had to hold the smaller ones in their laps," she said.

The women said their

complaints to parish school officials were not immediately addressed.

Easley said she wanted to settle the matter. She said the driver had been suspended without pay, and she would announce the results of the district's investigation at a school board meeting on Sept. 5.

NAACP District Vice President James Panell told *The Times of Shreveport* that he would give federal attorneys details of the situation this week.

Coushatta is a small farming town in northern Louisiana. The farming town's school district has about 1,600 students, Easley said.

Fired lawyer: Clarett offered deal

COLUMBUS, Ohio (AP) - A fired attorney for Maurice Clarett said Friday an assistant prosecutor offered a plea deal in July with a sentence as short as 1 1/2 years if the ex-Ohio State football standout admitted to a robbery charge.

Clarett was in court last Friday for a status hearing on that January robbery charge. He is scheduled to go on trial Sept. 18, pending a mental evaluation, on charges that he held up two people outside a Columbus bar early New Year's Day and took a cell phone from them.

During the 20-minute hearing, Judge David Fais ruled he will not issue a gag order in the case. Claret spoke just once, responding "yes, sir" when Judge Fais asked if he understood the proceedings.

He turned to smile at his mother and two friends who sat behind him.

Fired attorney Bob Krapenc, who sat in on Claret's hearing, told reporters afterward that the former Ohio State running back, Krapenc and his partner met in July with assistant prosecutor Doug Stead about a

plea deal. Krapenc said Claret had not decided whether to accept the deal and admit to a felony robbery count in return for a five-year sentence with the option to apply for release after 1 1/2 years.

Claret fired Krapenc and his partner about two weeks later.

It's not clear if the deal is still on the table, and Stead would not comment Friday.

Claret's current attorneys said they were trying to find out more about the meeting.

"Certainly, anyone who had an opportunity to talk to

my client prior to my representation of my client is someone I need to talk to," said Nick Mango, Claret's attorney.

Claret has been jailed since Aug. 9 when he was charged with carrying a concealed weapon after officers found four loaded guns in his SUV after a police chase that began near the home of a woman set to testify against him in the robbery case. Officers said they had to use pepper spray to subdue him because he was wearing a bullet-proof vest that thwarted their stun guns.

Janis Carter

Janis Carter Live

CD Release Party

Sunday 7:30 p.m.
September 3rd

Alexis Park Resorts
375 E. Harmon Ave.
For Ticket Information
702-391-4634

