

Lawsuit: U-M unfairly kicked student out over sexual assault allegation



An example of a dorm room at Moshier-Jordan Hall. *(File photo)*



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A former University of Michigan student is suing the school, claiming an investigation into a sexual misconduct report that resulted in his suspension violated his constitutional rights.

Twenty-one-year-old Drew Sterrett, of New York, filed lawsuits in both federal and Washtenaw County courts in late April that say the university committed numerous violations while looking into a sexual encounter that occurred between Sterrett and an unnamed female student at Mosher-Jordan Hall in March 2012.

Sterrett was never criminally charged and the woman didn't report any misconduct until August 2012. The lawsuit alleges the sex was consensual and the woman only reported it as misconduct after her mother found a diary chronicling the times she had sex.

Sterrett's attorney, civil rights lawyer Deborah Gordon, said this incident and others like the Brendan Gibbons sexual misconduct case are examples of why universities shouldn't investigate crimes like sexual assaults.

"I think they don't know what they're doing," she said Tuesday night in a phone interview. "I think if they're going to take it upon themselves to investigate (the crimes), they need a heck of a lot more training."

The university said it plans to fight the lawsuit.

"The university is reviewing the complaints and plans to defend them vigorously," U-M spokeswoman Kelly Cunningham said in an email to The Ann Arbor News. "What we can say now is that our student sexual misconduct policy and practices meet or exceed due process requirements."

The lawsuit comes on the heels of other issues involving sexual misconduct reporting and investigations at U-M and schools nationwide.

U-M is currently among 55 schools being investigated by the U.S. Department of Education for their handling of sexual assault claims. U-M is being investigated for its response to the Gibbons case and one other complaint.

Gibbons was expelled after U-M discovered he had violated the university's sexual misconduct policy. He was arrested on Nov. 22, 2009, during a police investigation into a reported sexual assault at the Chi Psi fraternity house. Gibbons was never charged in the case, but was expelled years later after the policy had changed.

A subsequent U-M student government investigation into the Gibbons case found numerous problems with the sexual misconduct policy.

Sexual encounter

Sterrett was a freshman in fall 2011 at U-M's School of Engineering, and the Michigan Research Community. He lived at the Mosher-Jordan residence hall with a roommate, who is not named in the lawsuit, and made friends with many other students in his program and in the MRC, including the woman.

Prior to these events, Sterrett "had an excellent reputation, zero involvement with law enforcement and conducted himself in a manner that was completely respectful of women at all times," the lawsuit said.

The lawsuit gives the following account of what happened March 16, 2012:

There was a gathering at Sterrett's dorm room. The woman didn't want to go back to sleep at her own dorm room because her roommate had company. She decided to stay in Sterrett's room. They had kissed prior to that night, the suit says.

Sterrett and his roommate, whose name does not appear in the suit, have bunk beds. His roommate climbed into the top bunk to go to sleep. Sterrett and the woman got into the bottom bunk.

Also uncontested by the woman is that they kissed and had sexual intercourse.

The woman did contest that the sexual encounter was "completely consensual at all times," according to the suit.

Sterrett's roommate was in the top bunk throughout the encounter. The woman is not contesting that she never attempted to ask him for help.

While the two were having sex, the roommate wrote Sterrett the following Facebook message at 3:19 a.m."

"Dude, you and [the woman] are being abnoxtiously(sic) loud and inconsiderate, so expect to pay back in full tomorrow. I only don't say anything now so I don't embarrass you all ... Yours Truly"

The woman spent the rest of the night in Sterrett's room, according to the suit.

"At no time did (the woman) ever tell (Sterrett) that the sexual encounter had been anything but consensual," the suit states.

Sterrett and the woman agreed to keep the encounter to themselves the next morning.

Sexual misconduct

The woman went to the university's Office of Institutional Equity five months later, on Aug. 2, 2012, to make a verbal, sexual misconduct complaint.

Sterrett was back home in New York when he got a call from Heather Cowan, program manager and investigator with the Office Student Conflict Resolution, a few days after that. He was told a student had filed a complaint against him, but Cowan didn't specify what it was. He agreed to Skype with her about it later that day.

Gordon said Sterrett has still never met face-to-face with any of the university officials who were involved with his suspension.

Sterrett admitted to the sexual encounter and said it was consensual. What followed was an investigation into the matter that the suit says violated Sterrett's 14th Amendment right to due process.

Gordon said he was never given the names of the witnesses Cowan was interviewing and there was never a hearing.

Students have these for other offenses, Gordon said, but not for sexual misconduct. She called the investigation "a Kafkaesque nightmare."

When Sterrett came back to school in the fall, he couldn't return to his old dorm or associate with any of his old friend, the suit claims. Since he wasn't allowed to talk specifically with his roommate who was in the top bunk, the suit also claims the university violated his constitutional right to free speech.

The report

Cowan's report was finished by November 2012 which "determined that (he) engaged in sexual intercourse with (her) without her consent and that that activity is so severe as to create a hostile environment," the suit states.

The suit alleges the decision was partially based on Sterrett telling Cowan that he regretted the encounter. It was only at this time that the university said alcohol

may have been involved. The report stated the girl was too intoxicated to have been able to give consent, the lawsuit says.

At that time, Sterrett was suspended from U-M until May 1, 2016. The appeals board, members of which are named in the suit, denied him any further action.

The report's findings have left Sterrett in bad standing with the university and unable to get into other schools, the suit claims. And he will only be allowed back into U-M if he admits to the misconduct.

The suit claims he has also suffered emotional distress, humiliation and embarrassment. Sterrett is seeking reinstatement into the university and other damages, including financial, in the lawsuit.

The university has 28 days from the date the suit was filed on April 24 to respond. Then a scheduling conference will take place.

John Counts covers crime and breaking news for The Ann Arbor News. He can be reached at johncounts@mlive.com or you can follow him on [Twitter](#). Find all Washtenaw County crime stories [here](#).

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