

Charges are dropped against two college fraternity brothers who had been accused of gang raping woman

Prosecutors in Florida said case was 'not suitable for prosecution' on Thursday
Students David Anthony Kirk, 20, and Jack Ryan Smith, 26, had been charged
Woman claimed the two coerced her into drunken sex at a frat party in April
But their lawyer said she was just embarrassed after having sex with two men
Similar charges were dropped against two other chapter members last year

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Prosecutors have dropped sexual battery charges against two college students who were accused of gang raping a drunken woman at a party.

The case against University of Central Florida students David Anthony Kirk, 20, and Jack Ryan Smith, 26, was 'not suitable for prosecution', the Orange-Osceola State Attorney's Office said in a notice filed on Thursday, according to the Orlando Sentinel.

Kirk's attorney said that witnesses debunked the woman's claims, and that she fabricated the story out of embarrassment after she was spotted at the party having sex with two men.

The prosecutor's office did not elaborate on what made the case unsuitable for prosecution.



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Charges of sexual battery have been dropped against University of Central Florida students Jack Ryan Smith (left), 26, and David Anthony Kirk (right), 20

Kirk and Smith were arrested in April, several days after the party near the UCF campus in Orlando.

An arrest report says the woman was too drunk to consent to sex when she was assaulted at what was described as a 'party home' for the Alpha Tau Omega fraternity.

The woman told deputies she drank vodka and flavored water on the way to the party, and then continued to drink green apple-flavored shaved ice with vodka at the party. The arrest report did not say if the woman was a student.

During the party, she said she spent most of her time with Kirk and Smith in the backyard, according to authorities, and then began to slur her words and blacked out.



Alpha Tau Omega's UCF chapter is seen. The party in question occurred elsewhere off campus

She said that she then remembered waking up naked in a bedroom on her stomach in a queen-sized bed.

The woman alleged that while Smith was raping her, Kirk was forcing her to perform oral sex on him, according to the arrest report.

The woman told deputies she was numb, in shock, and in tears. She said she heard the two men say 'my turn, my turn' before switching positions.

The woman said that after the alleged rape, she sat on the bathroom floor across the hall and texted her friends for help. She then met them and went home.

Kirk was expelled from the UCF chapter of the fraternity, and is not known if Smith was a member.





Last August, Alexander Garces, 22 (left), and Antonio Candido, 22, (right) were charged with sexual battery and false imprisonment for allegedly raping a woman at their fraternity party.

Those charges were dropped months later

It is the second time in less than a year that members of Alpha Tau Omega's UCF chapter have had charges dropped in an alleged gang rape.

In August, two men - Alexander Garces and Antonio Candido, both 22 - were charged with sexual battery and false imprisonment.

A woman accused the two men of raping her at a 'New Years in July party' at the on-campus home.

The charges against the two men were dropped a few months later.

<https://www.dailymail.co.uk/news/article-5851575/Charges-dropped-against-Florida-college-students-accused-gang-raping-woman.html>