



## Air Force captain acquitted of rape charges

By BEN MURRAY | STARS AND STRIPES Published: February 23, 2007

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RAF MILDENHALL, England — A U.S. Air Force captain Thursday was acquitted of charges that he raped an airman's wife after a unit-sponsored party at RAF Welford last May.

Capt. Robert D. Merwin, 36, of the 420th Munitions Squadron was cleared of charges of rape, conduct unbecoming an officer by way of sodomy and making false official statements to investigators after a short deliberation by an eight-member panel at RAF Mildenhall.

The charges stemmed from the woman's allegation that he had consensual oral sex with her at the party, then raped her in the early hours of the following morning.

Testimony in the one-day trial began when the alleged victim took the stand and claimed that, after hours of drinking at an "ammo call," or daylong outdoor squadron party at Welford, the two had a consensual rendezvous in a hallway of a nearby building.

The woman went on to testify that her husband later left her at the party after he saw her kissing a different man, and she decided to spend the night at Welford.

Later that night, she said, while sleeping in a room adjacent to where Merwin had gone to bed, she awoke to find him having sex with her. Merwin, however, denied having any physical contact with the woman, either in the hallway or the following morning.

Merwin testified that he had seen the woman at least twice during the party, but that he had eventually gone to sleep in a conference room adjacent to his office, where the woman had gone to bed, and not woken up until the following morning.

Both said they had been drinking steadily since the function began in the morning. Merwin said he estimated he had 12 beers over the course of the day, while the woman said she had about 10 beers and five or six margaritas.

The defense challenged the veracity of the woman's claims about her behavior during and following the alleged rape. She told the panel she had not resisted or cried out during the alleged assault, and instead had pretended to be asleep because she had been frightened of Merwin. The woman later testified, however,

that she also got up after the alleged attack, then returned and talked to Merwin, and accepted a ride home from him the following morning.

“If she was so afraid to the point that she couldn’t move ... then why would she go back and lay down where the rape occurred?” asked Maj. Stephen Gantor, defense lawyer.

Gantor zeroed in on the prosecution’s lack of physical evidence.

“There was no rape,” he said. “In fact, the government can’t prove there was sex, much less rape.”

In his closing arguments, Gantor also reiterated that the woman had not reported the alleged rape — she had told a friend who told others until someone called the police, according to court testimony.

Prosecutors, meanwhile, countered that it made no sense to invent a fake rape to deflect attention from a kiss she had already been caught having, because part of the accusation included what the woman admitted was consensual oral sex with Merwin.

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