

## No grand jury charges to be filed against three Syracuse University basketball players



By Jim O'Hara, The Post-Standard

on August 03, 2008 at 1:30 AM, updated August 03, 2008 at 12:23 PM

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Syracuse, NY - A grand jury has rejected a former Syracuse University student's accusations that she was sexually assaulted by three SU basketball players, ruling that no criminal charges should be filed against the men, said District Attorney William J. Fitzpatrick.

In a "resounding" decision, the grand jury found her accusations against the players -- Jonny Flynn, Antonio "Scoop" Jardine and Rick Jackson -- were not consistent with other evidence in the case, Fitzpatrick said Saturday.

"At the end of the day for the grand jury, what may be looked at as something that they were not comfortable with, something they would not want their children to be doing, they were not there to be the University morality police or the parents of these children," Fitzpatrick said. "They were asked if there was a reasonable belief that a crime had occurred and they answered that question with a resounding, 'No.'"

Fitzpatrick faxed a two-page letter to the players' lawyers notifying them that the grand jury "has refused to consider sexual assault charges" against Flynn, Jardine and Jackson. ([Click here to see the letter.](#))

The lawyer of the woman who made the accusations said it took courage for her to come forward.

"Certainly she had nothing to gain from this," said Patrick Britt, who has a law office in Syracuse. "I, quite frankly, admire her courage."

The woman is "very disappointed" in the grand jury's decision, Britt said. "However, I believe she feels good about testifying and at least making the effort in coming forward," he said.

The woman is not named because The Post-Standard does not name victims of alleged sex crimes.

Stefano Cambareri, Emil Rossi and Michael Vavonese, lawyers representing the basketball players, said they were pleased the criminal investigation had ended. Cambareri and Rossi added that their clients were unfortunately going to bear the stigma of the allegations and criminal investigation despite being exonerated.

On Saturday, a spokesman for Syracuse University said the college plans to go ahead this month with its disciplinary proceedings. The woman's mother said her daughter plans to participate in that process.

Fitzpatrick said the woman may truly believe she was sexually assaulted.

"But we can't prosecute defendants strictly on what's in a victim's mind," he said.

The grand jury was given preliminary legal instructions about sexual assault charges and witness credibility after hearing from the woman, the three players and other witnesses, Fitzpatrick said. They were given a chance to deliberate to see if they needed further instructions, he said.

The panel indicated it did not, because it concluded no crime had occurred, he said.

"It was not a close call," Fitzpatrick said of the decision.

In his [faxed letter to the players' lawyers](#), Fitzpatrick provided a history of the case

and how it came to be put before a grand jury now despite the fact the incidents covered in the woman's complaint occurred in September and October.

He wrote that he thought the matter had been resolved with an informal disciplinary process on campus after the woman refused to cooperate in any criminal prosecution. He noted the case was resurrected earlier this year at the urging of an SU associate dean, touching off a four-month investigation by the District Attorney's Office.

He also said her reluctance to cooperate with a criminal investigation of her complaint convinced him the matter needed to be reviewed by a grand jury.

Fitzpatrick said his office reached out to the woman as part of the investigation.

"Despite numerous telephone calls, messages and letters, the accuser ignored our requests to even speak with us for several months," he wrote in his letter to the players' lawyers. "In fact the first time she spoke to us was with her attorney on the day of her scheduled grand jury testimony."

The woman's mother said they did not hear anything from the DA's office for weeks after the beginning of the year until SU decided to reconsider the case in late March. The family never received letters from the DA's office, she said.

The woman's mother said her daughter did cooperate with the investigation. The family lives out of state and needed time to arrange coming to Syracuse to meet with the DA's office, she said.

"We never at any time obstructed in any way the investigation and never refused to speak with the DA's office," she said. The woman's mother is not being named to avoid identifying her daughter.

Fitzpatrick said the accuser admitted when she came in to testify before the grand jury Wednesday that she knew the prosecutor's office had been trying to get in touch with her and that she just didn't want to talk to prosecutors.

Britt said his client had not refused to cooperate with the investigation. "They just needed a little bit more time to think things through, and they wanted to keep all options open and available to them," Britt said.

Britt began representing the woman between six and eight weeks ago.

Fitzpatrick said he wouldn't have signed off on the informal campus disciplinary process if he thought the case still involved allegations of a forcible sexual assault. But he said he was informed that was no longer the case.

Britt said his client has maintained she was the victim of a forcible sexual assault.

"Our daughter has never wavered from her account of the incidents from the time it happened until now," the woman's mother said.

Fitzpatrick noted he has long made it a priority of his office to protect the interests of victims.

"But a false allegation is still a false allegation and we can't prosecute someone just to serve some perceived public good," he said. Fitzpatrick immediately said he was not accusing the woman of making false allegations against the players in this case.

Fitzpatrick Saturday declined to elaborate on the specifics of the woman's allegations other than to say they did not involve allegations that she was beaten or threatened with a weapon.

Fitzpatrick mentioned that the legal instructions given to the grand jury included information about the charge of criminal sexual assault. That charge covers acts of oral or anal sexual conduct. He made no mention of legal instructions relating to rape.

Fitzpatrick also said the woman was involved in two incidents about a week apart but only made a complaint of criminal misconduct after the second of the two incidents. Not all of the players were accused of having sexual contact with her during that incident, he said.

A fourth male student who was part of the initial campus disciplinary process was not part of the grand jury investigation because the woman didn't accuse him of criminal wrongdoing, admitting her relationship with him had been consensual, the prosecutor said.

Fitzpatrick said he was adamant about having a grand jury look into the matter because of controversy surrounding allegations involving SU basketball player Billy Edelin several years ago. Edelin was suspended by SU in 2001 based on allegations from two female students of unwanted sexual conduct. But the District Attorney's Office decided not to file criminal charges.

Given controversy over that matter, Fitzpatrick said he was determined never again to allow SU to proceed with a campus disciplinary proceeding where criminal wrongdoing is alleged without initiating a grand jury investigation.

Kevin Morrow, a university spokesman, said when SU students are accused of being involved in felony criminal matters, SU always defers to the Syracuse Police Department, as the lead investigative agency, and the Onondaga County District Attorney's Office.

"The university would review any evidence collected in the course of the criminal investigation that would constitute possible violations of the Code of Student Conduct and would consider disciplinary proceedings through the university judicial system once the criminal process had concluded," Morrow said.

Fitzpatrick also said he had not wanted the situation to become anything like what happened with the investigation of the Duke lacrosse team's players who were accused last year of raping a woman at a party. He said he was "not Mike Nifong" and had had no intention of handling the case here like the North Carolina prosecutor who lost his job over the handling of the Duke case.

"I follow the evidence," he said.

In his letter to the defense lawyers, Fitzpatrick admitted the outcome of the case could be perceived as an exoneration of the players or a cover-up. The latter would be "an insult" to the 23 members of the grand jury who heard the evidence and made an independent decision about the case, he added.

The three Syracuse University basketball players still face university disciplinary process.

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