

Originally, the article below contained or appeared to contain three additional photographs. When I consulted the original in April 2019, they were not linked properly, so I have removed their captions and credits herein. Scroll down to read the article.



Hylton prevails: But jury says "no rape"

By [Courteney Stuart](#) | stuart@readthehook.com

Published online Thursday Sep 8th, 2005

and in print [issue #0436](#) dated Thursday Sep 8th, 2005

Although Annie Hylton exclaimed "They believed me" at the conclusion of her civil suit over an alleged date-rape, interviews with some of the jurors in the case tell a different story.

Despite delivering a \$150,000 verdict in the highly publicized case, jurors say that the former UVA student failed to prove that she was raped or that she was drugged. Nonetheless, say the jurors interviewed by the *Hook*, Hylton was a victim of such "negligence" that she deserved compensation from her alleged attacker.

Hylton sued fellow UVA student Matt Hamilton for nearly \$2 million, claiming he drugged and raped her in December 2001 when she was an 18-year-old first-year and he was a 21-year-old third-year.

The three-day trial, which wrapped last week, was marked by a profound lack of physical evidence. Instead, it was a case of Hylton's word against Hamilton's. Hamilton, a 2003 graduate now living in Brooklyn, New York, currently works as an options trader.

Almost immediately after receiving instructions from Charlottesville Circuit Court Judge Edward Hogshire, says juror Kim Henderson, the jury's five women and two men agreed on two things.

"There was no drugging, no rape," says Henderson. On those issues, she explains, "We were all on the side of the defense."

Hylton, who first went public with her story in the *Hook's* November 11, 2004 cover story, "How UVA turns its back on rape," testified that she drank a small amount of alcohol throughout the evening of December 8, 2001. She and Hamilton started the night with dinner at the C&O restaurant with two other couples, then went to an

apartment party and later to the Delta Tau Delta fraternity where Hamilton was a member. While Hylton admits to playing drinking games with malt liquor and allowing Hamilton to mix her two drinks, she says she only sipped them and poured out several.

Even so, Hylton claimed, she suddenly felt sick and began vomiting. Her nausea, according to her own testimony and that of several friends, began sometime after midnight and lasted for between one and two hours.

Hylton's recollections after that time are spotty, and she said she awoke at some point to find Hamilton having sex with her in his loft bed. She moved her pelvis away from him and said no, she testified, but the 6'6", 270-pound Hamilton pinned her down and resumed having intercourse.

Hylton's lawyers, Ed Wayland and Steve Rosenfield, argued that her confused condition was brought on not by alcohol, but by a date rape drug they claimed Hamilton slipped into one of Hylton's drinks.

Joseph Saady, a forensic toxicologist for the Commonwealth who performed an analysis on samples taken from Hylton at UVA hospital the morning of December 9, testified that he found neither alcohol nor a class of drugs called benzodiazepines in her blood or urine. But he pointed out that the tests performed were not necessarily sensitive enough to detect certain other date rape drugs, if they had been present in her system.

"This is a classic Mickey Finn case," said Dr. Eugene Corbett, an internist at UVA Medical Center, who testified that Hylton's condition could not have been caused by alcohol. He estimates Hylton had "five or six ounces" of alcohol over several hours, not enough to incapacitate the 5'8", 140-pound athlete.

Hamilton's testimony about the night in question painted a dramatically different picture from Hylton's. Hamilton testified that the then-underage Hylton drank willingly throughout the evening, and that she voluntarily changed from her dress into one of his t-shirts before climbing into his loft bed at the end of the evening, after she had been sick.

There, testified Hamilton's friend and fraternity brother Ben Decker, she was an "energetic drunk," who joked with people in the room below.

Hamilton testified that once he joined her in bed, the pair engaged in consensual foreplay and eventually had intercourse, though briefly.

"She indicated she didn't want to be doing it anymore," said Hamilton, who testified he stopped and went to sleep.

"Did you hold her down?" asked his attorney, Doug Winegardner.

"It did not happen at all," Hamilton replied.

Winegardner pointed out inconsistencies between Hylton's current testimony and the version she gave to UVA's Sexual Assault Board in 2002. At that time, Winegardner

pointed out, she'd testified that Hamilton had not resumed having sex once she'd awoken and pushed him away.

The next morning, both sides agree, Hylton asked him for a ride home, and the two engaged in "inane chitchat" in his car, Hamilton testified.

One glaring aspect of the trial was the lack of forensic evidence regarding chemicals. There was no testimony that Hamilton ever possessed, manufactured, utilized, or even discussed date-rape drugs. However, Hylton isn't the only woman to accuse him of sexual misconduct.

Another UVA student, who court records describe as "Jane Roe," alleged in a deposition that she too felt mysteriously immobilized while Hamilton had sex with her without her permission. However, just weeks before the trial began, the judge excluded that testimony from the trial on the grounds that there were too few similarities to Hylton's case.

While the two sides disagree on the events of that night, both agree that Hylton has suffered from post-traumatic stress syndrome since the December 2001 incident.

In the months that followed, Wayland argued, Hylton transformed from an outgoing young woman into someone who suffered from panic attacks, feared leaving her room, and slept with the lights on. Several times, he said, she considered suicide. And more recently, Hylton testified, she has struggled with flashbacks during intimate moments with her husband, Mark McLaughlin, a Navy pilot whom she married last month.

But Hamilton's expert witness, psychiatrist Barbara Haskins, testified that post traumatic stress syndrome can be brought on by a "perceived" trauma.

Further, she testified, Hylton's claim of drugging is unlikely.

While date rape drugs can cause amnesia and vomiting, Haskins testified, nausea usually occurs as the drug is wearing off, and not while the drug is exerting its mental effects. Statistics also suggest an alcohol blackout is a more likely explanation for Hylton's condition, Haskins said.

"One in four college students has an alcohol blackout," she testified. And of that number, she said, one in four has sexual activity during the blackout. "You definitely can engage in complex actions" while in a blackout, she said.

The jurors say Haskins' testimony was compelling— and helped them form an opinion about what really happened to Hylton.

"We believe she believes she was raped," says Miller. The jury, Miller explains, decided Hylton "drank more alcohol than she meant to."

Miller and Henderson also praise Winegardner's skill, particularly in a closing argument demonstration when he used water to show how much "alcoholic beverage" Hylton consumed. Rather than the five or six ounces Corbett suggested, Winegardner estimated she'd had at least 40 ounces.

"I thought he made a really good point," says Henderson.

In closing arguments, Wayland asked the jury to consider the hardship Hylton has been through, and to find Hamilton guilty of assault and battery and gross and simple negligence. But the jury wasn't entirely swayed. After some consideration, Miller says, the jury found Hamilton guilty only of "simple negligence."

"He should have just let her lie in the bed and go to sleep," Henderson says.

Juror Gregg John says the jury believed that both Hamilton and Hylton were negligent that night, but that since Hamilton was "older and more experienced with alcohol," he should be held to a "slightly higher standard."

John says he initially favored finding for Hylton and awarding her just \$1 "to send a message," he says, "not to reward Hylton or punish Hamilton to an extreme degree, but to tell them, 'You need to be accountable.'"

Some of Hylton's friends held Hamilton accountable with their own form of vigilante justice at one spring running of the Foxfield Races. After a bitter Hylton berated Hamilton at the Garth Road racing track, several of her friends confronted him and one poured a beer over his head. Another time at the Biltmore Grill, Hamilton testified, a group of her friends surrounded him and allegedly prevented him from leaving. A friend of Hylton's confirmed those confrontations during her testimony.

"Some of her witnesses didn't benefit her," said juror Henderson.

As the jury deliberated, Hylton had more to think about than just the impending verdict. Minutes after the jury broke for deliberation at 4pm on Wednesday, August 31, her husband left for a six-month tour of duty in the Persian Gulf. A Navy pilot, McLaughlin will be stationed on the U.S.S. Theodore Roosevelt, which left Norfolk the following morning.

After approximately three hours, all parties were called back into the courtroom to hear the jury's questions about Hylton's underage drinking, and whether it would legally prevent her from receiving damages.

Wayland joined a group of Hylton's friends and could be heard saying, "They're not talking about money."

He was proven wrong, however, when at 8:12pm, just over four hours after deliberation began, the jury found Hamilton negligent and awarded Hylton \$150,000 in compensatory damages.

As the verdict was read, Hamilton showed little expression and put his head on top of his clasped hands. Hylton flashed a smile and a thumbs-up to her family and friends. Once court was adjourned, Hamilton— who throughout the trial appeared to be without family support— quickly left the building without his attorney. At the same time, Hylton phoned her husband from the courtroom, in tears as she told him the news.

Though the award is a far cry from the original \$1.85 million in compensatory and punitive damages she originally sought, Hylton expressed satisfaction with the trial's

outcome. "It's been a long three and a half years," she says. "The overall process was more important than the verdict itself because it brought a lot of attention to the issue."

Winegardner, however, says his client is "devastated" by what he calls a "compromise verdict."

Winegardner won't reveal the cost of Hamilton's nearly two-year defense, but Hylton's attorney Rosenfield estimates it is "in the six figures." While that sum was paid for by Hamilton's parents' homeowners insurance, the \$150,000 award won't be covered. That means Hamilton, who testified his annual salary is approximately \$40,000, may have to pay it out of pocket.

"Certainly it's going to have a devastating impact on his personal financial situation and his career aspirations," says Winegardner, who will present several motions on September 19 asking that Judge Hogshire overturn the verdict.

Henderson says she feels for Hamilton.

"My devastation was toward him," she says. "He's going to be labeled."

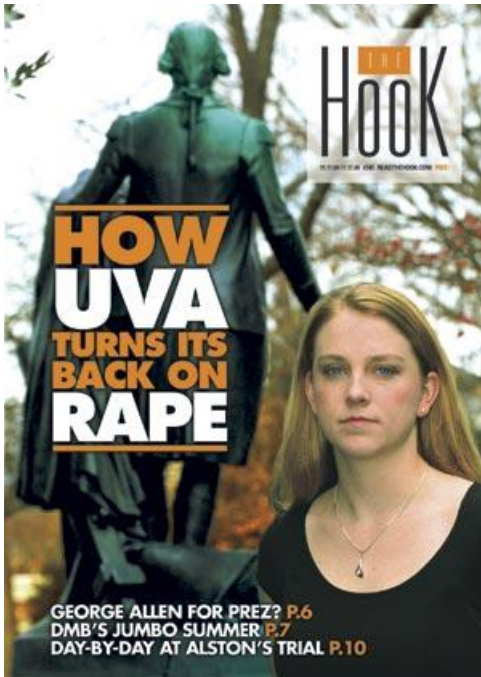
Hylton, meanwhile, is starting her first semester of student teaching in Fairfax County and plans to graduate with a combination Bachelor's/Master's degree in January.

Rosenfield and Wayland took her case on a contingency basis, and stand to be paid between 33 and 40 percent of her total award. Her out-of-pocket legal costs to this point, Rosenfield says, have been approximately \$10,000.

Though she may not receive any money soon, and the award is less than one-tenth of what she'd requested, Hylton says she's still happy with the jury's decision, and she'd go through it again.

"Women can now look at what I did," she says, "and maybe they can come out and tell other people about it and get counseling."

—With additional reporting by Lindsay Barnes



Annie Hylton first went public in *The Hook*'s November 11, 2004 cover story. "I feel like he messed with the wrong person." –Annie Hylton

<http://www.readthehook.com/97659/news-hylton-prevails-jury-says-quotno-rapequot>