

## Kelly accuser's memory of 'rape' but not of sex killed her case: sources

By [Laura Italiano](#)

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Maria Di Toro (above), the woman who accused Greg Kelly (inset) of raping her in a Financial District law office.

'GOOD' GUY: TV anchor Greg Kelly returns to his "Good Day New York" offices yesterday, cleared of false rape charges, and ready to return to the air tomorrow. (Daniel Shapiro)

She insisted she was raped – she just couldn't remember actually having sex.

Maria Di Toro, the woman who accused Greg Kelly of raping her in a Financial District law office, admitted she had no memory of the alleged attack — making it impossible for investigators to pursue a case against the Fox 5 TV anchor, sources said yesterday.

"Not remembering is not tantamount to being raped," one source said a day after prosecutors announced they're dropping their probe of Police Commissioner Ray Kelly's youngest son.

Di Toro, 29, told investigators that she got so drunk the night she left her boyfriend at home to go out with the popular TV newsman that she blacked

out on everything that happened after they left the bar to adjourn to the nearby firm where she works as a paralegal.

But despite being too bombed to remember the supposed rape in her boss' office at Cullen & Dykman, she insisted they must have had sex.

The Manhattan woman claimed that she became pregnant from the encounter and later aborted the baby.

But sources have told The Post there was no proof she was in a drunken stupor during the liaison.

In fact, investigators determined she'd had only a few drinks with Kelly at the South Street Seaport bar Jeremy's Ale House. They even checked out the very low bar bill the two rang up.

Investigators also viewed surveillance video that showed she entered the law firm with him, on her own two feet, without swaying.

Still, Di Toro convinced investigators she genuinely believed Kelly took advantage of her — despite her failure to remember what happened.

And because she truly believes she was attacked, prosecutors are not charging her with making a false rape allegation, DA sources have said.

The sources also said her story to investigators “was consistent.”

The new details emerged yesterday as word spread that Kelly will return to work tomorrow as co-host of “Good Day New York.” He took a leave of absence on Jan. 26.

Kelly, 43, met with Fox 5 brass at the station's Upper East Side studio yesterday and confirmed his joyful return to the airwaves.

“I'm very appreciative of all the support, the positive support I've received,” Kelly said as he left the pow-wow.

Kelly's co-anchor Rosanna Scotto hours before had tweeted, “It is a GOOD day NY!” — an obvious reference to her buddy beating the rape rap.

Fox 5 and The Post are both owned by News Corp.

The Post has also learned that Di Toro's boss won't fire her despite her unauthorized use of his office.

Before she made her complaint, her boyfriend — whom she was still dating when she hooked up with Kelly — confronted Ray Kelly at a public function and him his son “ruined my girlfriend’s life.”

The commissioner told him to write it in a letter, which he apparently never did.

But Manhattan DA investigators — who were given the case by the NYPD because of the obvious conflict of interest the Police Department faced in investigating the boss’ son — were immediately skeptical of Di Toro’s story.

Sources revealed that Di Toro, who became smitten with Kelly after a chance meeting on a street, exchanged steamy sexting messages with the ex-Marine pilot both before and after their Oct. 8 night out.

“The lustfulness for each other was mutual,” a source said about those post-date text messages.

Investigators also were concerned that she waited more than three months to go to authorities, and suspected she might have been pressured by her boyfriend to complain after her learned of her infidelity.

Greg Kelly, who like his accuser met with investigators soon after the complaint was made, adamantly denied raping her.

*Additional reporting by Jonathan Camhi, Dan Mangan, Erin Calabrese and Larry Celona*

<https://nypost.com/2012/02/09/kelly-accusers-memory-of-rape-but-not-of-sex-killed-her-case-sources/>