



## How 6 brutal rape charges against Colby Messer unravelled in a Denver courtroom

Victoria man was accused of gang raping a woman in a hotel room during a trip to Denver with three friends



[Mike Laanela](#) · CBC News

Posted: Oct 19, 2016 3:13 PM PT | Last Updated: October 20, 2016

The Vancouver Island man accused of gang raping a woman in a Denver hotel room last year is returning home a free man.

Colby Messer, 30, was arrested in March and charged with six counts of sexual assault for an alleged attack on a 27-year-old woman during a November trip to see a football game with his friends.

On Monday, Messer learned the district attorney's office had dismissed the remaining two charges and was closing the case. The four other charges had already been dismissed by the judge at a preliminary hearing in August.



After more than seven months preparing for trial in Denver, Colby James Messer of Victoria learned all six counts of sexual assault against him had been dismissed. (Denver District Attorney)

His lawyer, Ken Eichner, told CBC News that after more than seven months of preparing for trial, Messer and his family were "ecstatic" about the news the charges had been dismissed.

"This has hung over him like a cloud. It has been absolutely traumatic for him and his parents ... He has always been innocent of these charges," he said.

## **Arrested 4 months later**

The case first made headlines when the Denver District Attorney revealed the 30-year-old Victoria resident had been arrested in Las Vegas on March 4.

U.S. officials had been tracking Messer and three other B.C. men for several months after their November trip to Denver to see a football game.

After the game ended, a 27-year-old woman told police she recalled drinking with a group of men, but had no memory of returning to a hotel room with them.

But when she awoke, she said she realized she'd been sexually assaulted by several men, at times with objects from the hotel room.

Messer was charged four months later when he returned to the U.S. to reportedly propose to his fiancée, but the three other Vancouver Island men considered suspects in the disturbing case were never arrested or charged.

## **‘New information’**

While the allegations of a rape were shocking, the case against Messer began to unravel as the case moved toward trial, according to Lynn Kimbrough, the spokeswoman for the Denver District Attorney's office.

"There was new information that became available that — rather than strengthen our case — kind of put a question mark over our ability to prove those charges to a jury beyond a reasonable doubt," said Kimbrough.

"Lab work came back. DNA results came back. Information from a new witness became available and new information from the victim herself."

At the first of two preliminary hearings early in August, the case against Messer continued to unravel, his lawyer said.

First, the toxicologist used by the prosecution testified she found only traces of alcohol in her fluid samples, despite the woman saying she was so drunk she blacked out.

## **4 charges dropped**

As the preliminary hearing continued, other evidence against Messer failed as well in court, Eichner told CBC News on Tuesday from Denver.

There was no DNA from Messer on the accuser or on any object found in the room, and neither the accuser nor her friend ever identified Colby Messer when they were shown photographs.

The court took a break for several weeks, and when the hearing resumed at the end August the judge dismissed all but two of the charges against Messer.

The rest were dismissed by the prosecutors themselves earlier this month after Messer pleaded not guilty.

According to Eichner, the charges never should have been laid before the investigation was complete.

"Had this case been investigated more thoroughly, we might not have been through this horrible situation," said Eichner.

"This is just a case where they proceeded too quickly. Things need to be checked out and verified."

## **‘Something did happen in that hotel room’**

While Messer has been cleared by the courts, it remains unclear what did happen in the hotel room in November,

Eichner says his client had been drinking heavily that day, and was passed out when the alleged assault took place.

Kimbrough says much remains unclear, but the case is not going any further.

"The investigation really has concluded. There is no further direction that investigation can go. It is not to say that something did not happen in that hotel. Something did happen in that hotel room last November."

"We have a young woman who suffered serious injury, but we unfortunately no longer have a way to prove what we believe happened there, and that's where that ethical obligation comes in to dismiss the count."

Kimbrough said the district attorney did meet with woman and tell her the charges were being dropped.

"It was very difficult and hard for her to hear," she said.

As for Messer, who had been living in Denver while he awaited trial, on Monday the judge ordered his passport and cellphone returned to him and he was free to return home.

"He is en route to Canada soon." said his lawyer. "We are just taking care of a few things. Colby is going to resume his life and flourish."

## **ABOUT THE AUTHOR**

---



[Mike Laanela](#)

Mike Laanela is an online journalist with CBC News in Vancouver.

[@mlaanela](#)

<https://www.cbc.ca/news/canada/british-columbia/colby-messer-1.3810048>