

Greg Rinckey Discusses Lawsuit Filed in Naval Academy Sex Assault Case

Attorneys for a midshipman at the center of a sexual assault case against three ex-Navy football players have asked in a federal lawsuit filed Thursday that the Naval Academy's superintendent not be involved in deciding whether the men will be court-martialed. The lawsuit seeks a court order directing Vice Adm. Michael Miller to recuse himself, said Susan Burke, attorney for the woman the men are accused of assaulting. As the head of the school, Miller is likely to be biased and he did nothing to prevent lengthy and abusive testimony during a military court hearing on the accusations, the lawsuit states. "The trial days were running well past the capacity of the witness," Burke said. The Associated Press generally doesn't name those who authorities say were victims of sexual assault and the lawsuit refers to her as Jane Doe. The lawsuit stated: "The superintendent, acting from afar and without ever setting foot in the courtroom, intentionally subverted the judicial process in order to punish Midshipman Doe for daring to blow the whistle publicly on wrongdoing by Naval Academy football players and the subsequent cover-up. He acted from bias because his own career interests in being perceived as a strong leader of the academy were at stake." The court filing comes after Burke's client spent five days testifying, sometimes under tough cross-examination, about the case during an Article 32 hearing, which resembles a preliminary hearing in civilian court. The investigative officer who presided is expected to review the evidence and recommend to Miller whether the men should be court-martialed, which is a military equivalent of a trial. Such reviews can take days or weeks to complete. Eric Graham, 21, is charged with abusive sexual contact, while Midshipmen Tra'ves Bush, 22, and Josh Tate, 21, are charged with aggravated sexual assault. All three also are charged with making a false statement. The woman testified at the hearing that concluded Tuesday that she had drunk heavily and has no memory of having sex with the midshipmen after a 2012 toga party at an off-campus house. She has said she became worried when she noticed lewd comments on Twitter that seemed directed at her and tagged to people she had slept with in the past. She also testified that rumors had spread rapidly that she had had sex with multiple partners at the party. The lawsuit notes that the person who made the allegations was not the woman, "but some other person who attested to having personal knowledge of the crimes." During the weeklong Article 32 hearing, the 21-year-old senior midshipman faced questions that included intimate information such as whether she wore underwear the night of the party. She also was asked in open court about how much a woman needed to open her mouth to perform oral sex. Most of the first day of the hearing was in closed court, with attorneys arguing over what evidence would be allowed. The lawsuit says the woman had to take the stand to rebut "various exaggerations and fabrications about her past sex life" without underlying evidentiary support. "The investigative officer issued a sealed decision, which wrongfully permitted defense counsel to make blatant intrusions into the midshipman's privacy without any countervailing relevance," the lawsuit said. The woman said on three different days she was too tired to continue testifying. Testimony scheduled for Saturday ended up being postponed when she said she couldn't continue after answering questions for four days

from three defense teams. The lawsuit noted that the midshipman was required to report at 7:30 a.m. and not released until 9:30 p.m. on the second day of the proceedings last week. She also was required to report at 7:30 a.m. on the following two days. Burke sought to get the full Labor Day holiday weekend free for her client to rest, but the superintendent denied the request, according to the lawsuit filed in Maryland. Ronald Herrington, a defense attorney for Graham, said it was his recollection that every request for a break or suggestion that the woman needed an early end to the day's testimony was granted by the presiding investigative officer.