

Defense Attorneys Question Accuser's Credibility in Naval Academy Rape Case

By Annys Shin
Defense attorneys for three former U.S. Naval Academy football players continued to try to chip away at the credibility of the female midshipman who has accused the athletes of raping her at an April 2012 party. For four hours Thursday morning, Andrew Weinstein, an attorney for Tra'ves Bush, questioned the woman about her motives and inconsistencies between the accounts she gave about the alleged incident to investigators and the news media. The midshipman, now a 21-year-old senior, testified Wednesday that she initially withheld information because she didn't "want the case to go anywhere." She said she was scared and didn't want her mother to find out. The Washington Post does not generally identify alleged victims of sexual assault. She gave two sworn statements to investigators, one in September and another in January, which she said was more complete. Weinstein frequently tested her memory of those statements over the course of two days and more than eight hours on the stand. She remained adamant Thursday that she did not remember much about what happened the night of April 14, 2012, after she arrived at a "Toga and Yoga" party at an off-campus house that was packed with midshipmen. She said she drank heavily and woke up later disheveled with a sore back. In the days after the party, she heard rumors that she had had sex with multiple men, including Bush, 22, of Johnston, S.C., and the two other defendants, Joshua Tate, 21, of Eight Mile, Ala., and Eric Graham, 21, of Nashville. But Weinstein's questions raised the possibility that any sex with Bush that night could have been consensual. The accuser has testified that she and Bush had a prior sexual relationship. "Do you believe Tra'ves Bush to be a rapist?" Weinstein asked. "I am telling what I know," she said. "I can't say that I do know." She said in press interviews that she felt intimidated by her alleged attackers. But under questioning by Weinstein, she undermined that claim, saying that she "misspoke" and that she was referring only to Tate and not to Bush or Graham. In one of the more dramatic moments of the day, the defense played a snippet of a phone conversation with Tate that took place about a week after the party in which the woman is pleading with him to tell investigators that "nothing happened." She said in the recording, "I hate to ask you to lie" but that she was desperate to forestall an investigation. On the call, Tate responded, "That s--- ain't cool." The recording contradicted her statements that she had not asked Tate to lie to investigators. She testified previously that for months after the party she sought to quash rumors about what happened, as well as to keep other midshipmen from reporting anything to authorities. A few times, Cmdr. Robert Monahan Jr., who is presiding over the hearing, made Weinstein abandon lines of questioning, such as when he asked the accuser whether she had apologized to another midshipman with whom she had consensual sex the morning after the party "for being a ho." Weinstein also questioned the accuser on whether she was part of a "crusade" to change how the military handles sexual assault cases and whether she had ever imagined having a movie made about her. She said no. The hearing this week at the Washington Navy Yard has offered a glimpse into how the military handles such cases in light of Defense Department reports that as many as 26,000 service members said they were targets of unwanted sexual contact last year. Known as an Article 32, the proceeding has been likened to a civilian grand jury because the hearing officer determines whether the case

should go to a court-martial. But unlike a civilian grand jury, defense attorneys are allowed to cross-examine witnesses. In this case, three defense teams will take turns questioning the woman. As she had previously, the accuser appeared on the stand in her dress whites, but she often looked weary and began crying several times, including while she recalled ducking into a bathroom stall to cry during training for sexual-assault prevention. In the bathroom, she said, she met another training session refu-gee, who said, "I wonder how many other bathrooms look like this." The proceedings on Thursday ended two hours earlier than they had the previous two days because the woman was exhausted. After the end of the hearing, which is expected to last into the weekend, Monahan will make a recommendation to the academy superintendent about whether to take the case to court-martial. That recommendation will become public a few weeks after the hearing ends, academy officials said. Under military law, the maximum penalty for rape is life in prison without the possibility of parole and a dishonorable discharge, said Lisa Windsor, a former judge advocate who is in private practice in Washington. The men were also charged with making false statements. The maximum penalty for that offense is five years in prison and a dishonorable discharge. In addition to her credibility, defense attorneys also focused on the notion of consent. The woman said she does not know for sure whether she gave consent because she remembers so little about that night. "I don't know what happened," she said. "It would make me almost happy if I found out nothing happened."