



## Accuser in Naval Academy Rape Case Concludes Testimony After Five Days on Stand

By Lyndsey Layton  
The female midshipman who accused three former U.S. Naval Academy football players of rape concluded her testimony Sunday after a rare break in proceedings Saturday because her attorney said she was emotionally and physically exhausted. Cmdr. Robert Monahan Jr., the investigating officer presiding over the hearing, agreed to limit the amount of time the accuser would be questioned Sunday. Monahan made the decision after a pointed request by Susan Burke, the woman's attorney, who said her client was being worn down by limitless and repetitive questioning by three separate legal teams representing the defendants. By the time she concluded, the woman had been on the stand for more than 24 hours over five days. Outside the hearing, Burke said she believed there had been "an intentional effort to exhaust the witness" so the proceedings would be halted and the prosecution would go no further. The hearing is focused on the night of April 14, 2012, after the accuser arrived at a "toga and yoga" party at an off-campus "football house" that was packed with midshipmen. The Washington Post does not generally identify alleged victims of sexual assault. She said she drank heavily and woke up later disheveled with a sore back. In the days after the party, she has said, she learned from friends and social media that she had sex with multiple men, including the three defendants — Tra'ves Bush, 22, of Johnston, S.C., Joshua Tate, 21, of Eight Mile, Ala., and Eric Graham, 21, of Nashville. All three men have denied any wrongdoing. During the course of the hearing, attorneys for the men have questioned the woman about her sex life in detail. Attorneys for Bush argued that the sex might have been consensual, noting that he had a prior sexual relationship with the accuser. And Graham's attorneys asked the woman about how she performs oral sex, saying they were trying to show the act requires "active participation." Attorneys representing the football players on Sunday said the accuser continued to have social interactions with the players after the alleged attack, noting that she went on a boat ride with Tate and others from the Naval Academy in the summer of 2012. The passengers were drinking "exotic rum," the woman testified. "I don't think it would be reasonable for her to go to another party with these same individuals and consume alcohol if he had done this to her," Jason Ehrenburg, an attorney for Tate, said in the hearing. The woman testified that she did not know that Tate was aboard the boat until she arrived and that she joined the party because she did not feel intimidated by him. The proceedings, held at the Washington Navy Yard, come as the military faces increased scrutiny over how it handles cases of sexual assault. As many as 26,000 service members said they were the targets of unwanted sexual contact last year, although only 3,374 incidents of sexual assault were reported, the Defense Department said this year. Known as an Article 32, the hearing is similar in some ways to a civilian grand jury. At the conclusion, the hearing officer will make a recommendation to the academy superintendent, who will decide whether the case should go to a court-martial. Under military law, the maximum penalty for rape is life in prison without the possibility of parole and a dishonorable discharge, according to Lisa Windsor, a former judge advocate now in private practice. The men were also charged with making false statements. During the hearing, attorneys highlighted discrepancies in formal statements made by the alleged victim as well

as versions of the events offered by the accused, sowing confusion and raising questions about who was telling the truth. Ehrenburg, Tate's attorney, asked the woman about a phone conversation she had with Tate in May 2012, after an investigation was underway, in which he told her that they had not had sex on the April night in question, despite the fact that he had told her soon after the party that they did. In that call, Tate said that "us having sex was not a true statement," the woman said. "He said he had lied because everyone else was saying he had had sex with me and he decided to go along with it because it was cool or whatever," she testified. Also Sunday, a medical expert testified about how alcohol affects behavior and memory, saying a person in a "blackout state" will have difficulty remembering his or her actions but is capable of making decisions and understanding consequences. Kim Fromme, a professor of clinical psychology at the University of Texas, testified by conference call. Asked by one of the defense lawyers if a person "in a blackout stage can willingly engage in oral sex with another," Fromme said yes. When questioned by prosecutors, Fromme said that a person in a blackout state may have "significantly" impaired judgment. Bush's graduation was delayed pending the outcome of the case. Graham is a senior, and Tate is a junior. Both remain at the academy, as does their accuser.