



Sexual-assault charges dropped against second former Navy football player

By Annys Shin

In the latest setback to a highly scrutinized sexual-assault case at the U.S. Naval Academy, charges were dropped Friday against a second former Navy football player, leaving just one midshipman facing court-martial in the alleged rape of a female classmate. Vice Adm. Michael H. Miller, the academy's superintendent, dismissed the charges against Eric Graham, a senior from Eight Mile, Ala., at the urging of prosecutors

. They were responding to a recent ruling by Col. Daniel Daugherty, the judge presiding over the court-martial, to suppress statements Graham made to Navy investigators about his sexual contact with the alleged victim at an off-campus party in 2012. Investigators failed to read Graham his Miranda rights before questioning him, prompting Daugherty to rule that Graham's account of what happened that night was inadmissible. Without those statements, Miller concluded, there were "no reasonable grounds to believe a crime of sexual assault was committed" by Graham, said an academy spokesman, Cmdr. John Schofield. It was the latest reversal to a high-profile case

that, for some, has come to symbolize the shortcomings of the military in handling sexual-assault cases and helped push changes by lawmakers in Washington. Congress recently passed new limits on the role of military commanders in such cases: For example, they can no longer overturn jury convictions, and decisions to decline to prosecute can trigger a "civilian review." Those changes will not apply in this case because it was referred to court-martial before the law passed, military law experts said. Miller's actions have come under fire from attorneys for the defendants and for the alleged victim, who have accused him of being more interested in safeguarding his career than ensuring justice. Daugherty has ordered Miller to appear on the stand this month to answer questions from defense lawyers about his decision to go forward with courts-martial over the recommendations of his legal counsel and a military judge who heard evidence at a preliminary hearing known as an Article 32. Chip Herrington, an attorney for Graham, expressed relief at Miller's decision to drop the charges against his client. "We now hope he can put this behind him and focus on his studies, graduate, receive his commission and serve his country, which was the plan all along," he said. In a letter sent Thursday to Miller, attorneys for the alleged victim had urged that the case against Graham carry on, citing other evidence prosecutors could use, including statements Graham made to one of the other accused men and on social media. "This case is being dismissed because of a technicality," said Ryan Guilds, one of the attorneys. "That doesn't take away from what happened here." The accuser, who is in her final year at the academy, was "very disappointed" that Graham's case will not go to a jury, Guilds said. "She was committed and wanted to move forward." Graham was one of three midshipman Miller initially charged. The accuser testified at the Article 32 hearing during the summer that she was drinking heavily

that night and remembers little of what happened. The Washington Post generally does not

identify alleged victims of sexual assault. After the Article 32, Miller dropped charges against former midshipman Tra'ves Bush, of Johnston, S.C., but chose to put Graham and midshipman Joshua Tate, a senior from Nashville, on trial separately. The court-martial against Tate will proceed. Because his attorneys also filed motions claiming that Miller's decision to take the case to trial was tainted by political considerations, Miller is still expected to appear before Daugherty this month at the Washington Navy Yard. The decision comes as the Pentagon on Friday reported an increase in the number of sexual-assault reports at the academy. Although the report lauded the efforts of the service academies to make it easier for alleged victims to come forward, it showed that last year more of them chose to make "restricted" reports, which allows them to confidentially access medical care and advocacy services without triggering a criminal investigation. The number of restricted reports rose from 26 to 34. At the Naval Academy, 11 of 15 reports last year were restricted. Legal experts have faulted the investigators for failing to perform a basic task such as reading a suspect his Miranda rights before collecting a statement. Attorneys for the alleged victim also cited another instance of bungling that came up in Article 32 testimony: Investigators sent the accuser to secretly record a conversation with one of the accused with a device that didn't work. At different times, attorneys for the defense and the alleged victim said the pressure that military leaders are facing over sexual-assault cases made it nearly impossible for Miller to be impartial. "I have to say the meandering course of this controversy only confirms my deep misgivings about having commanders make these decisions. That is one of the lessons people will take away from this," said Eugene R. Fidell, a military law expert and a visiting lecturer at Yale Law School. "I don't think people can have much confidence in the administration of justice when a single set of charges experiences this kind of turbulence." Once Miller decided to send Graham and Tate to trial over the advice of the military judge and a legal adviser, said former military prosecutor Greg T. Rinckey, the government's lawyers were put in a difficult position, pursuing a case that had already been declared weak. "I think they were stuck with a crappy case," Rinckey added.