

Judge in sex assault trial could tap jury outside Naval Academy

Midshipman Joshua Tate headed for court-martial in March

A former Naval Academy football player who is accused of sexually assaulting a fellow midshipman is moving toward a court-martial next month, officials said Tuesday. Jason Ehrenberg, a civilian attorney for Midshipman Joshua Tate, said the military judge in the case told prosecutors and defense attorneys this week that he planned to deny motions to dismiss the case. "We're going forward," Ehrenberg said. The judge, Marine Col. Daniel Daugherty,

has

not yet issued his rulings, and a Naval Academy spokesman said it would be improper to comment on a pending case. But the spokesman, Cmdr. John Schofield, confirmed that the academy is planning for the court-martial in mid-March. Tate is charged with aggravated sexual assault and making a false statement. According to Ehrenberg, the judge indicated that he would look for jurors from outside the Naval Academy. Ordinarily, the jury would be made up of officers assigned to the academy. Richard Rosen, a retired Army colonel who teaches military law at Texas Tech University, said that going beyond the Naval Academy is more likely to yield jurors who have not heard about the case. It also means the jurors would not be connected to Vice Adm. Michael Miller, the academy superintendent who ordered the court-martial. "They want to make sure there's no taint of command influence," Rosen said. Greg T. Rinckey, a former Army lawyer now in private practice in Washington, said having a jury from outside the close-knit academy could bode well for Tate's defense. "The Naval Academy, let's face it, is a small pool," Rinckey said. "It's been all over the news. Everyone in the academy has heard something about it." The alleged victim testified that she has only spotty recollections of the off-campus party in April 2012, but believes she might have been assaulted, in part based on rumors and postings on social media after the party. She said she drank heavily before and during the party. The Baltimore Sun does not identify alleged victims of sexual assault. Three then-football players were initially accused. After a preliminary hearing last year, Miller declined to pursue charges against Tra'ves Bush, who is now an ensign in the Navy. Charges were dropped against another midshipman, Eric Graham, after the prosecution's case weakened. He is in the process of withdrawing from the academy and has been granted immunity to be a witness in the Tate case.