

Judge acquits midshipman in Navy Sex Assault Case — Tully Rinckey PLLC™s Robert G. Kelly, Esq. provides insight to The Columbus Dispatch.

Judge acquits midshipman in sexual-assault case

WASHINGTON — A judge acquitted a former Naval Academy football player of sexually assaulting a drunken female midshipman, one of a number of sexual-misconduct cases roiling the U.S. military. Midshipman Joshua Tate, a senior from Nashville, Tenn, had been accused of assaulting the 22-year-old woman at an alcohol-fueled off-campus party in April 2012. Marine Col. Daniel Daugherty found Tate, who resigned from the academy yesterday, not guilty of aggravated sexual assault after two days of testimony by more than a dozen witnesses at Washington's Navy Yard. Asked by reporters how much of the trial had been motivated by the military wanting to show it was tough on sexual misconduct, Tate's attorney Jason Ehrenberg said: "All of it." "That's the system we have. We protect alleged victims, but we don't protect alleged perpetrators," he said. Tate's accuser was not present at the proceedings. Prosecutors declined to comment. Daugherty said he would refer another charge against Tate, making false statements, to the academy for discipline under the school's honor system. Later yesterday, Naval Academy spokesman Commander John Schofield said Tate had resigned from the program in exchange for that charge being dropped. Three U.S. Naval Academy football players initially were accused, but Tate was the only one to be court-martialed. Charges against the other two were dropped. The woman, also a senior at the academy in Annapolis, Md., testified that she had been torn about cooperating with Navy investigators and had concealed from them how much alcohol she consumed at the party. She conceded that she was too drunk to remember having sex and only learned about it through social media and classmates. In his verdict, Daugherty said the woman had obviously been traumatized by comments her classmates posted on Facebook and Twitter, which he called "rude, disgusting and vulgar." But her failure to remember the sexual encounter did not by itself prove she was incapacitated or did not consent to having sex with Tate, the judge said. Robert Kelly, a former judge for the Marine Corps and Navy, said the Tate case underscored how commanders were free to order prosecution despite legal advice against it. Vice Adm. Michael Miller, the Naval Academy superintendent, was urged by his legal counsel and a military judge not to proceed. He denied in January that he was under pressure to go ahead with prosecution. The Defense Department said in December that there were more than 5,000 reports of sexual assaults across the armed forces in the fiscal year through October, up about 50 percent from the previous year. President Barack Obama also in December approved reforms aimed at stemming the crisis. He urged graduating Naval Academy officers in May to stamp out sexual assault in their ranks.

