

## EXCLUSIVE: Wisconsin Army National Guard Botches Court Martial Of Sergeant Accused of Sexually Assaulting Another Sergeant

By Mark Belling, WISN-AM

I have learned that Wisconsin military prosecutors have botched the handling of the case a Wisconsin Army National Guard Staff Sergeant who prosecutors allege sexually assaulted a fellow staff sergeant at Fort McCoy near Sparta in August of 2015 and again at a residence in Hartford in Washington County in December of 2015.. Military Judge J.D. Klauser last month dismissed charges against the sergeant, ruling Army prosecutors did not properly file charges and bring the case in a timely fashion.

The spokesman for the Wisconsin Division of Military Affairs, Jackie Halverson, says the case is still under review and prosecutors may attempt to re-file the charges. The alleged victim in the case, who I am not naming in this story, left the Guard several months ago and is furious with the handling of the case. She even set up a "Gofundme" page to raise money to hire a private attorney but since has taken it down. I am not naming the alleged victim in this story although she has publicly identified herself briefly on the Gofundme site.

The following information is based on a partial transcript of the court hearing in which the charges were dismissed, interviews with the Guard spokesman and a state Open Records Act request.

The alleged victim, a female staff sergeant, reported the incident to authorities in Washington County and Guard officers after she alleged she was assaulted at a residence in Hartford by the defendant, a sergeant she served with. The offense was not reported, however, until months after the incident. The alleged victim claimed the other sergeant had been hounding her for months and also assaulted her while both were on Guard duty at Fort McCoy. Washington County District Attorney Mark Benson declined to issue criminal charges for the Hartford incident and, in a memo to Guard officials obtained by me under a state Open Records Act request, stated that it would have been difficult to sustain charges because others at the Hartford residence said they believed the sexual activity was consensual. Benson's memo states the alleged victim initially denied any sexual contact occurred. The memo stated the victim was intoxicated.

The Washington County memo was sent to military authorities in August of this year. Wisconsin Army National Guard investigators brought their own charges in military court months earlier, in October of 2017. The military proceedings were delayed while Washington County authorities decided if they would move forward on the Hartford case. State Guard officials have not answered my questions as to why they were not, at the very least, moving forward on their own on the assault on military grounds at Fort McCoy.

The military prosecutors indicated they based the charge in the Hartford case on the intoxicated state of the alleged victim, stating that the accused sergeant knew the woman was too intoxicated to give her consent to sexual activity. The military case was dismissed by Judge Klauser who ruled, according to a court transcript heavily redacted by Wisconsin Guard officials, because prosecutors did not bring the case in a timely fashion. The foul-up appears to have been caused by military prosecutors putting their case on hold while Washington County authorities decided if they would pursue charges. Judge Klauser ruled the military prosecutors made a fatal error by filing charges in October of last year, dropping them while the Washington County review was going on, and then bringing new charges later this

year. Klauser ruled the defendant's rights were violated because no charges were brought in a legally timely manner. However, in dismissing the charges "without prejudice," he left the door open for prosecutors to try to file them again.

Wisconsin Guard officials refuse to answer my questions about how they handled the case, saying since it is still being reviewed for possible future charges, it is an open case and therefore one they cannot comment on.

Halverson, the Guard spokesman, told me the Guard takes sexual assault and harassment very seriously and is still considering bringing new charges against the sergeant. The court transcript provided by the Guard redacts the name of the accused sergeant. I am contending the Wisconsin Guard, which is part of state government, has no legal authority to redact anything from a court transcript, particularly not the name of the accused. It is my understanding the accused sergeant is still a member of the Wisconsin Army Guard. The statement from the Washington County DA also redacts the name of the accused sergeant. I am not naming him in this story because of the refusal by officials to name him in court records.

The head of the Wisconsin Guard, Major General Donald Dunbar, has refused repeated requests by me to discuss this case. In addition, Wisconsin Guard officials, with the apparent support of Governor Scott Walker, have refused to adopt the same standards for reporting and handling of sexual assaults used by most of the US military. The Wisconsin Guard uses its own protocol for such matters. Dunbar will not answer my questions about that.

In addition, sources tell me other females in the Wisconsin Guard have complained about an environment of harassment from commanding officers and personnel and their complaints have been ignored by Dunbar and other Guard leaders.

Mark Belling  
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