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Charges dropped in alleged taped rape

Lack of evidence cited in pursuing felony indictments against suspended Raiders defensive tackle

By Kristin Bender

STAFF WRITER

ALAMEDA—A lack of evidence and an evasive accuser led county prosecutors Thursday to drop 25 felony rape and sexual assault charges against suspended Oakland Raiders defensive tackle Darrell Russell and his friends.

Prosecutors said they dropped the charges because they could not prove beyond a reasonable doubt that Russell, 26, and his two friends spiked a drink with GHB and then raped a Sunnyvale woman while a videotape rolled. Defense attorneys maintain the sex was consensual.

Russell, who held the video camera and directed the action, was charged as an accomplice because he did not intervene in the alleged attack Jan. 31 at the Alameda home of Raiders safety Eric Johnson.

"The evidence that we have in our possession is not enough to prove the case without a reasonable doubt," said prosecutor Kevin Murphy. "If the evidence is there, it's there. If it's not, it's not."

Murphy and Russell's attorneys refused to say specifically what led to the charges being



SUSPENDED OAKLAND RAIDER

Darrell Russell and his attorney Cris Arguedas (far left) outside Alameda County Superior Court on Thursday.

NICK LAMMERS
Staff

dropped.

"(The county) did their own independent and absolutely intense investigation (in the case)," said defense attorney Bill Du Bois. "Clearly the motion today was justified."

The key piece of evidence in the case was a grainy 21-minute black-and-white videotape that showed Na'eem Perry, 25, and Ali Hayes, 27, having intercourse and oral sex with the woman. Russell can be heard talking in the background, but he was not on the tape.

Shown in court during a preliminary hearing earlier this year, the tape was of poor quality, making it difficult to tell who was doing what to whom.

At times, the woman appeared to be an active participant in the group sex, while at other times she did not respond to advances.

She said she did not remember giving consent, but Russell said she twice agreed to the videotaped sex.

"The videotape showed consensual sex with a willing and active participant," said defense attorney Cris Arguedas.

Russell also admitted in a police interview the night of his arrest Feb. 1 that the woman videotaped having sex with two of his friends could have been drugged by someone before the camera starting rolling.

Difficulty remembering

On the stand during several days of questioning, the woman, a property manager who posed topless in Playboy last year, had a tough time remembering details of the evening. "I don't recall" and "I'm not sure" were standard answers. Recollections from

continued next page

State's doctor suggests influence of alcohol

continued

her friends who testified were also fuzzy.

The woman and her friends seemed to crumble under often combative questioning from Arguedas, a high-priced attorney who has been listed in every edition of "Best Lawyers in America" and worked as a consultant to the defense in the O.J. Simpson trial.

Arguedas repeatedly suggested that the 28-year-old woman made up the story so her friends would not condemn her for having sex with multiple men in one night.

Accusation of promiscuity

The defense painted the alleged victim as a promiscuous party girl who often drank to the point of blackout and dated several men, including other professional athletes, at one time.

And at one point the woman testified to having sex with Raider Johnson and Russell on the same night in January. She also testified that while she was dating Russell she was also seeing two other men, including

Seattle Mariners pitcher Freddy Garcia.

Russell's attorneys maintained that she concocted the story so she could sue the Raider for millions.

Even the state's own doctor testified that the woman could have been under the influence of alcohol—rather than GHB—on the videotape.

The woman did not return calls for comment Thursday.

If new evidence were to surface, the prosecution could reinstitute the charges, Murphy said.

Outside court Thursday, Russell said he was relieved to have the charges dismissed, but let down by his former lover.

Disappointed, hurt

"I'm more disappointed and more hurt than anything," he said.

"I'm a trusting person and I realized you can't trust everyone. I have to pick who I'm around more carefully.

"I can't hang out like everyone else. I've

gotta watch my back, people have no problem making up a bunch of lies so they can make their pockets as big as mine. That's not right."

When asked about the possibility of a civil suit against Russell, Arguedas said she didn't know whether one would be pursued.

Russell is serving a one-year suspension from the NFL for three times violating its substance abuse policy. He is eligible to reapply for reinstatement to the NFL on Jan. 2, 2003.

NFL refuses comment

NFL officials have refused comment on whether the criminal case would come into play in their decision to allow Russell back.

Russell said he is confident he will play for the league again.

Russell is still facing speeding and drunken driving charges in Nevada.

Last month he was arrested while returning home from a brothel outside Carson City.