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Duke lacrosse prosecutor faces ethics complaint

- 17-page complaint accuses prosecutor of various improprieties
- Ethics case opened in March, referred to hearing panel in October
- Punishment can range from a letter of warning to disbarment
- Rape charges against players dropped last week, other charges stand

RALEIGH, North Carolina (CNN) -- The prosecutor in the Duke University lacrosse rape case violated ethics standards in statements to the media about the case, North Carolina's bar complained Thursday.

The Duke case concerns claims by a 28-year-old student at North Carolina Central University who accused three players on Duke's lacrosse team of raping her during a party where she had been hired to work as a stripper.

A 17-page complaint to the bar's Disciplinary Hearing Commission accuses Durham County District Attorney Michael Nifong of telling reporters that the Duke players were refusing to cooperate with the investigation and that the players were refusing to make statements to local law enforcement authorities. It also says he improperly commented on tests involved in the investigation.

It further accuses him of improperly commenting on evidence and testimony he expected would be presented in trial; improperly giving his opinion about the guilt of the players; improperly trying to explain the absence of incriminating evidence; and improperly commenting on the character, credibility and reputation of the accused. Nifong's comments risked prejudicing any criminal trial, the complaint said.

In some interviews, Nifong made comments about the players' behavior that he had reason to believe were not true, in violation of the bar's rules of professional conduct, the complaint said. ([Watch defense attorneys call for the rape case to be dropped](#))

For example, it said, Nifong told a reporter for the Charlotte Observer newspaper, "I would not be surprised if condoms were used. Probably an exotic dancer would not be your first choice for unprotected sex."

Yet, the complaint said, Nifong had in his possession and likely had read the sexual assault exam report from the emergency room nurse in which the woman said the alleged attackers "did not use a condom."

Many of Nifong's statements to the news media "had a substantial likelihood of heightening public condemnation of the accused," the complaint said.

The chairman of the disciplinary commission will assign a three-member panel (including one non-lawyer) to hear the case, and the panel will set a trial date. Punishment can range from a letter of warning to disbarment.

The Disciplinary Hearing Commission comprises 12 lawyers and eight members of the public.

In a news release, the bar said that it opened its case against Nifong on March 30 and that the bar's Grievance Committee found reasonable cause on October 19 to refer the case to the commission.

Last week, Nifong dismissed the rape charges after the accuser said she could not remember whether a penis was used, but left kidnapping and sexual offense charges in place.

Duke President Richard Brodhead said last week that the findings call into question the validity of the remaining charges.

Two DNA tests have found no match between any of the three men and their accuser.

No one answered the phone at the district attorney's office and it was not possible to leave a message.

The case has prompted national outrage and discussion about racism and the rowdy behavior of privileged students at a prestigious university.

The accuser is black and the three accused students are white. All but one of the players on the Duke lacrosse team at the time were white.

Attorneys for the students have contended from the start that their clients are not guilty.

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