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Story

Anatomy of a travesty

Why two NYPD cops were acquitted of rape

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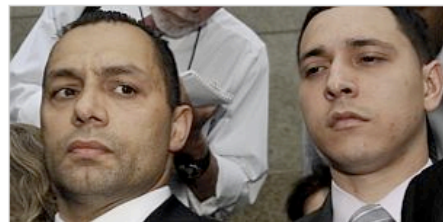
Ex-cop's wife says 'lying' rape accuser should be locked up

Comment



Maureen Callahan

Thursday's acquittal of two New York cops in the rape of a young fashion executive has already gone down as one of the most shocking verdicts in the city's history. Officers Kenneth Moreno, 43, and Franklin Mata, 29, admitted to helping the inebriated woman into her East Village apartment in response to a call for help. Surveillance videotape showed the officers leaving, then re-entering her apartment three additional times, with Moreno making a fake 911 call to cover up one of those returns. (Officer Mata, charged with serving as Moreno's lookout and presumably familiar with criminal law, testified that he didn't know "if making a fake 911 call is a crime.")



Former officers Kenneth Moreno (left) and Franklin Mata after the trial.

Moreno, accused of rape, testified that the woman, in between violent episodes of vomiting, attempted to seduce him and that he'd rebuffed her — although he did serenade her with a Bon Jovi power-ballad. Finally, he said, all they'd done was cuddle in her bed, she in only a bra.

The bruising to the young woman's cervix, the defense argued, was the result of her vigorous scrubbing in the shower, and this tack — revealing a staggering lack of familiarity with female anatomy — makes the not guilty verdict that much more incredible. Wouldn't any competent jury question whether rough sex was the more likely explanation?

Just how credible does a jury find a drunken young single woman in New York City? Did the lack of DNA evidence damn the prosecution — and if it did, should it have?

The Post spoke with multiple experts in criminal law and sex crimes, including a source in the DA's office, who asked not to be named and who says that, "to be totally honest, we knew from the beginning that it was going to be a really challenging case. We could've said, 'Ah, this case is a dog, there's no DNA evidence.' But we believed in her.

We know we're supposed to respect the jury's verdict, but we're disappointed."

Of our five experts, all agreed that there were three major contributing factors to this outcome.

THE 'CSI' EFFECT

"That's what we call this," says Eugene O'Donnell, a former cop and prosecutor in New York and current professor of law and police studies at John Jay Criminal College. "CSI Seattle, CSI Anchorage

... there's an insistence on the part of the jury that prosecutors have to have DNA evidence. They believe that it's present and necessary — it's neither." O'Donnell believes that "the law needs to be changed," that judges should be legally bound to inform juries that a lack of DNA evidence doesn't equal innocence. "We need a remedy with jurors," he says, "because I don't think it's getting through."

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