

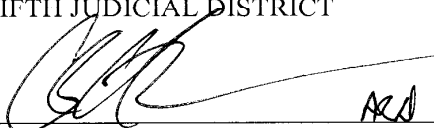
4. In the past two weeks, the defense has been on a campaign to get information in the public domain that has been specifically prohibited by the Court. At the preliminary hearing, the defense mentioned the victim's name on at least six occasions, after the Court specifically prohibited it. They have also attempted to release rape shield information at the same hearing. There appears to be a pattern disregard for the Court's orders that cumulated with the Jones' leak.

5. If the Court wishes, the People have no objection to following the same procedure the last time such a motion was filed. At that time, the Court ordered an independent investigation be conducted and the results held confidential unless and until a contempt citation is asked for. It is apparent that, if an investigation is to be held, an independent agency should do the investigation. First, the People, obviously cannot interview opposing counsel. Second, since Jones is being untruthful, maybe an independent agency may be able to get him closer to the truth.

WHEREFORE the People respectfully ask this Court to set a hearing to enforce its Pretrial Publicity Order of July 24, 2003 and sanction violations.

RESPECTFULLY SUBMITTED this 21st day of October 2003

Mark Hurlbert,
DISTRICT ATTORNEY
FIFTH JUDICIAL DISTRICT



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Mark Hurlbert, ARN 24606
District Attorney

New York Daily News - <http://www.nydailynews.com>

Team Kobe's bomb: Proof of other man
By GREG GITTRICH in Eagle, Colo.
and CORKY SIEMASZKO in New York
DAILY NEWS STAFF WRITERS
Saturday, October 11th, 2003

Kobe Bryant's defense team believes it has proof that the woman who accused him of rape had sex with at least one other man shortly before the alleged attack, the Daily News learned yesterday.

The revelation came a day after Bryant's lead defense lawyer, Pamela Mackey, caused an uproar at a court hearing by asking whether the woman's vaginal tearing was the result of "sex with three different men in three days."

Retired Eagle County District Court Judge William Jones said Mackey asked the question because she has physical evidence suggesting the tearing could have happened during an earlier sexual encounter.

"There was more than one man's semen found in her panties," Jones said. "That's what's behind all of this."

Jones said he learned of this from Mackey's co-counsel, Hal Haddon.

"I have known him for 40 years," Jones said. "He was doing some work for me and he mentioned it to me. It will come out in due course."

He does not account for Mackey's suggestion that the woman had sex with a third man.

Citing the gag order that Judge Frederick Gannett imposed on the case, a spokeswoman for District Attorney Mark Hurlbert declined to comment. Bryant's defenders also declined to discuss the case.

Veteran Denver criminal defense attorney Jeralyn Merritt said she's convinced Mackey has something up her sleeve.

"By her asking that question, it's clear they have evidence about the accuser," she said. "Pamela Mackey would not have brought this up out of thin air."

Mackey, a lawyer known as a pit bull in pearls, dropped her bomb after Eagle County Sheriff's Detective Doug Winters recounted in graphic detail the alleged victim's version of what happened on June 30 at the posh hotel near Vail, Colo.

The 19-year-old woman told cops she and Bryant kissed. But when she tried to leave, Bryant bent her over a chair and raped her, Winters said.

The accuser's blood was found on Bryant's clothes, Winters said.

But Mackey's surprise question brought the proceeding to an abrupt halt. The hearing resumes on Wednesday.

Crossed a legal line?

Former Denver District Attorney Norm Early said Mackey "blatantly smeared" Bryant's accuser and possibly violated Colorado's Rape Shield law, which bars lawyers from delving into the sex lives of assault victims.

"I don't care what evidence they could have, three nights of consensual sex with three different partners would not lead to a vaginal tear," Early said.

Karen Steinhauser, another former Denver prosecutor and an expert on sex assault cases, disagreed. She said

<http://www.nydailynews.com/front/v-pfriendly/story/125779p-112756c.html>

10/11/2003

vaginal tearing also occurs during consensual sex and that Mackey's question was "proper."

"There is an exception under the Rape Shield that allows her to ask about the injuries if there is evidence they could have been caused before," she said.

Mackey is no stranger to high-profile cases. Among others, Mackey got a domestic violence charge against Colorado Avalanche goalie Patrick Roy dropped. She also avoided jail time for Jeane Newmaker, who smothered her 10-year-old adopted daughter in a highly publicized "rebirthing" case three years ago.

Haddon represented JonBenet Ramsey's parents and got sex assault charges against gonzo journalist Hunter Thompson dropped for lack of evidence.

With Dan Luzadder in Eagle, Colo.

Certificate of Service

I hereby certify that on this 21st day of October 2003, true and correct copy of this People's Motion For Hearing to Enforce Court Order of July 24,2003 Concerning Pre-Trial Publicity and For Sanctions was sent by either email transmission, facsimile, or by United States Mail, correctly addressed to the following:

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