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Kobe Owes an Apology to All U.S. Women

By Lorraine Dusky, WeNews commentator

Editor's Note: The following is a commentary. The opinions expressed are those of the author and not necessarily the views of Women's Enews.

(WOMENSENEWS) – As the Kobe Bryant I-didn't-think-it-was-a-rape-but-she-did case stayed in the news over the past year, my heart went out to the 19-year-old at the center of the storm.

The circumstances resonated with me – she was young, she flirted with a superstar, she ended up in his room – and he got his way.

It almost happened to me. As a young reporter in upstate New York, I covered the speech a nationally-syndicated columnist gave to the local Kiwanis club. He was not of Kobe-Bryant fame, but he was well known enough. After his lecture, I had questions; he suggested that since he had been traveling and was exhausted, why didn't I come up to his room? He'd be happy to answer all my questions there. I went.

He had something in mind besides talk. No sooner had the door closed than he was all over me, assuming I was there to have sex with a semi-celebrity. It must have happened before. Call me stupid, but I was stunned. He got mad when I said no, but I did get out of there without being assaulted.

Fast Forward

Fast forward a decade later. I'm older and supposedly wiser when someone I'd just broken up with is banging on my apartment door in Manhattan. It's 1 a.m. I don't want him to wake the neighbors; so I let him in.

This time, I am not so lucky. He rapes me.

Did I call the police?

No.

I didn't even tell anyone for years, I was so embarrassed.

Years later the words of feminist legal scholar Catharine MacKinnon would strike home: “Ask a woman if she has ever been raped, and often she says, ‘Well . . . not really. In that silence between the ‘well’ and the ‘not really,’ she has just measured what happened to her against every rape case she ever heard about and decided she would lose in court.”

The woman who accused Bryant of raping her doesn’t have to wonder, for in his well-crafted apology the basketball star finally admitted that “she did not and does not view this incident the same way I did . . . I now understand how she feels that she did not consent to this encounter.”

This came after she had decided that she had already lost in the court of public opinion, and said she would not testify about what happened on June 30, 2003 in that hotel room in Colorado. The prosecution dropped the case.

Death Threats, Damaging Lies

But look what got her to that point. She’d received several death threats – one nut even volunteered to kill her for a million dollars; he’s in jail in California. Another who threatened her is behind bars in South Dakota. From the loose lips of the unethical defense attorney – yes, a woman – Pamela Mackey, the public heard all kinds of damaging lies and misrepresentations about her: that she had sex with three different men in three days; that she was unstable; that she was trying to get the attention of a former boyfriend; and that she was a racist to boot.

The judge’s office was no better. Judge Terry Ruckriegle joked around in court so much that the woman’s father felt compelled to write and ask him to stop. Then the judge’s clerk not once, not twice, but three times “accidentally” e-mailed testimony from closed hearings to the press.

A supermarket tabloid, the *Globe*, plastered a picture of her, as well as her name, on its front page. The picture shows a lot less skin than a swim suit model for, say, Saks Fifth Avenue, but in this context, she looks . . . sexy! Like a seductress! Without the backdrop of the case, we would only see that she is blonde and cute, just the kind of young woman who gets hit upon again and again.

The media circus surrounding the trial in Eagle, Colo., began to seem like that of a Southern lynching trial.

Bad Press Worked

The bad press worked. Women’s organizations were essentially silent. Bring this up with a group of people, women included, you’re likely to hear, “She went to his room voluntarily, she kissed him, what did she expect?”

Not to be raped, I expect.

The public heard little about the fine print of the case, i.e., that his first concern to the police was about his loss of endorsement dollars. That her blood was found on the T-shirt. That the woman had two one-centimeter lacerations in her vagina, as well as numerous pin-point ones.

Even in rape, vaginal tears are extremely rare, and are the result of a forceful and fast penetration, because the body does not have time to respond with lubricating fluid. The three or four sperm cells from another man found on her panties did not have the biological markers to indicate they were recent. She did, however, admit to consensual sex two days earlier.

More criticism from talking heads on television was heaped on her because she filed a civil suit before the criminal case was dropped. While strictly speaking filing at this point didn't affect her legal standing, it did make it seem as if "she was only in it for the money." While she would have sent Bryant to jail with a guilty verdict in criminal court, she wouldn't have gotten a financial settlement in that venue.

She's also been the subject of scorn because she filed the suit as "Jane Doe," rather than use her name, despite that it's already been bandied about on talk radio and in the tabloids, and can be found on the web by anyone with minimal research skills. Her attorney, Lin Wood, says that while she is aware she would gain credibility if she revealed her identity, and she may eventually do so, "the tenor of the public debate still indicates that there are still real concerns for her safety." With two guys in jail, and Kobe signing a contract with the Lakers for \$19.5 million a year, who wouldn't be?

Sure, it would have looked better if she had waited until the criminal case was over, but in the end in the end, what's the difference? She had been tirelessly mocked by the defense, the media and the masses, and she could only look forward to months more of the same.

No Room to Accuse

It boils down to this: Either she, and thus you and me, are entitled to a free and constitutionally protected sex life, or we are not. What this case is telling us all in bold face is that if we dare to have a sex life, we are then not allowed to accuse a deep-pocketed celebrity of rape. If we are going to say we were raped, we had better be virginal, or pretty close. The rape-shield laws that were designed to protect women from public humiliation simply don't work in a vast number of cases.

Remember Patricia Bowman? In 1991, she was likewise hanged in the media after accusing William Kennedy Smith of rape. With attack-dog attorney Roy Black, now turned nasty TV legal analyst, Kennedy Smith was acquitted.

Kennedy Smith was back in the news recently. A former employee has come forward and accused him of raping her, and two earlier complaints of "unwanted sexual advances" filed with the EEOC were "settled amicably," says he.

What is disheartening about all this is that it means that nearly nothing has changed if a woman accuses an acquaintance – especially a celebrity she’s just met – of rape. Yes, sometimes in acquaintance assault, the rapist is prosecuted. But by and large when it’s not a jump-out-of-the-bushes rape, when the woman has accepted a ride home, or gone to the guy’s room, or been otherwise friendly, she can only anticipate the worst--particularly if he can buy the kind of dirt-for-dollars defense that Kobe Bryant did.

Lorraine Dusky is the author of “Still Unequal: The Shameful Truth about Women and Justice in America” (1996, Crown Publishers).

For more information:

Rape Hotlines in 50 States:

<http://www.nemasys.com/ghostwolf/Resources/Hotlines/USA-rape/index.shtml>

Women Organized Against Rape: <http://www.woar.org/hotline.asp>

The Rape, Abuse and Incest National Network: <http://www.rainn.org/>

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