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Rape Shield Law Ruling will have Repercussions Our View

A ruling supported by the Colorado Supreme Court that allows Kobe Bryant's defense lawyers to question the woman accusing him of rape about her sexual history prompts questions about the future of the state's Rape Shield Law.

A 19-year-old Vail-area resort worker has charged that Bryant sexually assaulted her. He said the encounter was consensual.

The law states that evidence or opinion of the victim's or a witness' prior or subsequent sexual conduct shall be presumed irrelevant. Exceptions to the rule include evidence of the person's prior or subsequent sexual conduct with the accused or evidence showing the defendant did not commit the acts.

The impetus for the law was to prevent jurors or judges from considering information not relevant to the particular case under consideration. On a broader scale, the law appeared to emphasize that rape is a crime of violence, not sexual promiscuity.

The ruling by a state District Court judge in the Bryant case appears valid because of the L.A. Lakers star's defense that the accuser's assault injuries could have been caused by other partners.

But the troubling element in the judge's decision is that it did not limit questioning by defense lawyers to concerns related to Bryant's defense. Instead, the alleged victim could have been required Wednesday to answer questions about her sexual history years prior to meeting Bryant. Bryant's lawyers can use the opportunity not only to address whether there were other partners close to the time of the incident, but also to create the impression that the woman was sexually promiscuous and could not have been forced into sex.

The onus now is put on the judge, rather than the law, to ensure that questioning is focused on seeking the truth in this case rather than allowing a defense tactic that would attack the accuser. If unlimited questioning is allowed, the Rape Shield Law essentially becomes worthless.

And the ramifications beyond the courtroom could be devastating.

An estimated 16 percent of sexual assault victims report their cases to law enforcement, according to the Colorado Coalition Against Sexual Assault. The low rate is attributed to women who fear their privacy would be invaded or that the public would "blame" them for the assaults.

The Bryant case holds an extremely high profile, but it is not the case that will be most affected by the ruling on the Rape Shield Law. Women who once may have reported sexual assault will be watching to see if past promiscuity negates a charge of a sexual assault.

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