



## NANCY GRACE

### Duke University Lacrosse Team Member Suspended

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NANCY GRACE, HOST: Tonight, the scandal continues at one of America's premier universities. The clock is ticking down on DNA results. They will make or break the case, allegations of multiple beating strangling and sex attacks, with the finger pointed at Duke's elite lacrosse team. What's the hold-up on the DNA results? Is that report being held back in the hope that the controversy making national headlines will subside? And tonight: A lacrosse team member is actually booted off campus. But get this. It's not one of the alleged gang rapists.

And tonight, a 32-year-old minister's wife behind bars for allegedly killing her husband, a highly popular Church of Christ minister. Tonight, a brand-new defense emerges, that the preacher's wife is covering for the real killer. In spite of denials, we found out truth. Winkler was given special privileges to leave jail and visit her husband's body. Tonight, exclusive new sound and video as we search for answers.

Good evening, everybody. I'm Nancy Grace. I want to thank you for being with us tonight. Tonight, the Tennessee preacher murder mystery. Why did authorities and the defense cover the fact that Mary Winkler got special treatment, allowed to just leave jail and visit her husband, father and minister, the man she allegedly gunned down before taking her kids on vacation? And another defense theory made public, that the preacher's wife, Mary Winkler, has gone to jail to, quote, "cover for the real killer."

But first tonight, Duke University multiple rape allegations. Are DNA results being held back to keep the peace? Why? And tonight, one lacrosse team member suspended, but not one of the alleged rape suspects. And tonight we are taking your calls.

(BEGIN VIDEO CLIP)

UNIDENTIFIED MALE: Most people are waiting for the DNA results to come back. But things will probably move pretty quickly once we know what goes on with that.

UNIDENTIFIED MALE: We're very disturbed that the district attorney has come out to try this case in the news media before all the evidence is in.

UNIDENTIFIED MALE: Administrators know that a culture of violence, rape, a culture of gay bashing, racism and misogyny exists.

UNIDENTIFIED MALE: The entire world is watching. How we handle this will determine what kind of community we are.

UNIDENTIFIED FEMALE: I am enraged and disgusted and embarrassed.

UNIDENTIFIED MALE: The decadent e-mail raises the stakes.

UNIDENTIFIED MALE: And I'd have to say it, when I read it, I was sickened. I found it repulsive.

UNIDENTIFIED MALE: We demand that the same standards of justice and investigations should be applied as in any other case.

(END VIDEO CLIP)

GRACE: Are DNA results being held back while the controversy, hopefully, subsides? Does the district attorney already have those DNA results pointing the finger at three alleged rape suspects, all members of the Duke University lacrosse team?

Let's go straight out to WPTF radio reporter Kevin Miller. What's the hold-up on the DNA, Kevin?

KEVIN MILLER, WPTF RADIO: Nancy, Mike Nifong has been out town at a district attorneys' conference and announced later -- last week that he would hold off until early this -- next week, coming up, Monday or Tuesday, we expect them back. Now, the definitely that we've talked to here at WPTF and throughout the area has said that they welcome the DNA results back, and if the prosecutor does not release them, if they get the results back, they will release them. They feel confident that their clients are innocent.

GRACE: Question to you. The DNA was handed over, I understand through, oral swabs on March 23. The delay is very unusual in a high-profile case like this.

Let's talk about the type DNA. You've got nuclear DNA. You've got mitochondrial DNA. When you're taking nuclear DNA, there are various types under which different tests are used. There's PCR. Sometimes that may take longer than other types.

Let's go straight out to an expert in the field, Dr. Karl Reich. He's the chief scientific officer for Independent Forensics. Dr. Reich, explain to me how quickly, typically, this type of DNA is turned around.

**DR. KARL REICH, CHIEF SCIENTIFIC OFFICER FOR INDEPENDENT**

**FORENSICS:** It depends a little bit on how many analysts are assigned. But in this sort of sexual assault, where there are reference samples -- I believe are there 46 of them at least, and there are a number other evidence samples -- it can take at least five, seven, eight, nine working days before all that work is analyzed. There's a variety of samples from the victim, and those have to be analyzed individually. And then, of course...

GRACE: Well, what's interesting, Dr. Reich is in this case, allegedly -- and let me go to Kevin Miller with WPTF radio -- the alleged rape victim, gang rape victim, her name's being bandied about. Now, assuming that during this alleged sodomy and rape, strangling and beating, these young men couldn't keep up the pretense of fake names, we have the names!

MILLER: Right. That has been speculated, Nancy, in the search warrant and other warrants that have been released, that the accuser believes that the people that are accused -- that they, in fact, did use fake names. They actually started using their jersey numbers to call each other. And if you...

GRACE: During the rape?

MILLER: No, not during rape, but at this party where the dancing occurred. Then you have also the -- according to the warrant, where the dancer at the party actually said that members at the house identified themselves as members the Duke baseball team or the Duke track team to throw and confuse the two subjects, so they would make sure that they would not know who they are. Also, they used a fake name when they contracted for this.

GRACE: Exactly. Leslie Austin is with us, psychotherapist. My point, Leslie, is, if what she is saying true and this young lady, a student-turned-stripper, was at this party at this home, which is owned by Duke University and then rented out, do you really think these three guys could actually keep up the pretense of fake names during a rape, sodomy, strangulation and beating inside a tiny bathroom?

LESLIE AUSTIN, PSYCHOTHERAPIST: Probably not very easily, but it does show some premeditation, some planning for...

GRACE: OK.

AUSTIN: -- bad activity.

GRACE: I'm working up to a bigger point. Dr. Karl Reich, my point is, if they used their real name during the rape, that means we've got the names of the three alleged suspects. Now, how long will it take you, with an oral swab from these three suspects, to match up to possible sperm?

REICH: The actual match can go very rapidly. The time it takes to process the samples from the evidence scene, that's what takes the time.

GRACE: Take a listen to what the NAACP had to say today.

(BEGIN VIDEO CLIP)

UNIDENTIFIED MALE: The allegations surrounding the Duke lacrosse team, including sexual violence, gang rape, racial slandering, underage drinking, and a possible prior history of bigotry and public disturbance, were enough to raise grave concerns and to warrant the aggressive pursuit of justice by public officials and Duke.

Yesterday's release of the decadent e-mail written shortly after two black women left the lacrosse team party raises the stakes. The evidence was apparently in the hands of the criminal justice system for some time.

(END VIDEO CLIP)

GRACE: That is an authority with the NAACP today speaking out. As you know, the student-turn-stripper was black, the alleged assailants are white, only adding more tension to the mix.

Back to Kevin Miller with WPTF radio. Now, a lacrosse student has been suspended, booted, the guy that allegedly wrote this disgusting, heinous e-mail. Now, Elizabeth, would you mind putting that up? I've decided -- now, this is within an hour after this young lady is found dazed and confused, crying, disheveled in the Kroeger parking lot. Within an hour, this Duke lacrosse player writes this e-mail.

"I've decided to have some strippers over to Edens 2C." Edens, I believe, is a dorm. "All are welcome. However, there will be no nudity. I plan on killing the bitch as soon as she walks in and proceeding to cut their skin off while (DELETED) in my Duke issue spandex." What are they, like, Speedos, Ellie, like...

(CROSSTALK)

UNIDENTIFIED FEMALE: ... underwear, like, his -- the bottom half of his uniform (INAUDIBLE)

GRACE: OK. Yes. That's nice. Kevin Miller, this guy was suspended. Question. What about the suspects, the alleged rapists? Are they still there?

MILLER: Yes, Nancy, as far as we know, number one. And it's interesting, when you read this e-mail, this plays into the defense's spin that they said these kids couldn't have possibly do this who would be dumb enough to commit this crime and then write an e-mail. We heard from Joe Cheshire today, who basically said that, again, his clients are innocent.

I'm sorry. I'm just trying to get to this point here for a second. The fact that they wrote this e-mail is unsavory, it's unpleasant, but it doesn't prove they did this crime.

GRACE: Well, my question is, the guy who wrote the disgusting e-mail about killing and skinning strippers, after the last display he saw, he has been suspended. Why not the alleged rapists?

MILLER: Well, a lot of people are saying that. In fact, Duke University continues to try to respond to this. You've had protests. Richard Brodhead, the president, now having actually...

GRACE: Kevin! Kevin! Kevin!

MILLER: Nancy.

GRACE: I think it's been about three weeks. I've got two hairs (ph) past a freckle (ph). How much longer are they going to they wait?

MILLER: Well, I think they're going to wait until they're charged.

GRACE: Until they're formally charged?

MILLER: Yes, ma'am.

GRACE: They'll boot the guy for a nasty e-mail, but they'll keep the alleged rapist?

MILLER: Right. Because, again, this nasty e-mail, again, is unsavory. It's not welcomed at Duke, and they're proving a point.

GRACE: Unlike rape! Unlike gang rape!

MILLER: Well, but Nancy, let me -- I just remembered this. When talking to the defense attorney today, he said, Look, here is the theory...

GRACE: Whoa! The scandal meter is a-boiling, Kevin. Continue, please.

MILLER: Well, here is the theory that happened. These dancers were paid \$800. They danced for three minutes. They left. They came back. They were angry. This is...

GRACE: Well, wait a minute! You left something out. Key, I'm the lawyer! You're the reporter.

MILLER: Yes, ma'am.

GRACE: Check out that affidavit! Why did they leave? Why did they walk out of the performance?

MILLER: Because of the allegation that the broomstick would be used to hurt one of the ladies there.

GRACE: Yes. Yes. And let me say, in a vaginal manner. Go ahead.

MILLER: Yes. I...

GRACE: I'd leave, too. I wouldn't walk out, you'd see nothing but the back my head and elbows as I'm running away, OK?

MILLER: You're right, Nancy. You're right.

GRACE: That's why they left after three minutes!

MILLER: Right, Nancy. You're running away, but then, again, the defense is saying, Well, why'd they come back?

GRACE: Well, it's my understanding -- and correct me if I'm wrong because I firmly respect your better grasp of the facts than my own. You're there. It's my understanding, didn't some of the lacrosse players come out and go, Oh, oh, we -- don't listen to them! Come back in. We'll take care of him, OK? We've already paid you. Please, pretty please with sugar on top. And they go, OK, and then they go back in.

MILLER: Yes. That is, according to the search warrant. On the other hand, then you think to yourself, Well, who would go back into something like that?

GRACE: Somebody that has to strip to make a living, maybe?

MILLER: Good point.

GRACE: OK, now, back to Kevin Miller. I'm not through with you yet, Kev.

MILLER: OK.

GRACE: Tell me -- so the guy that wrote the nasty e-mail, he's out. The alleged rapists are still in. What else is happening as to the investigation?

MILLER: Well, I was really impressed with the comments by the North Carolina chairman the NAACP, William Barber. He said, Look, we don't need to have over-aggressive pursuit of justice. On the other hand, we can't vilify the accuser. He's calling for peace. But again, tensions are running very hot here.

You have the defense going after Mike Nifong. He's disappeared. He's not talking to the media, after making his presence known, after airing these charges. And you know, when I talked to him, he was telling me about the DNA was bulletproof. Now he's kind of backed off of that. I said, Look, what about eyewitness testimony? Why not just line these kids up and have the accuser do it? He said that eyewitness testimony isn't as reliable as the DNA.

Nancy, by saying this, he's put a lot of credit and reliability into this DNA. And again, he's announced that even if he gets it back, he might not release it. Defense attorneys say

that, Look, what they're doing here at lab is they're not going through all 46, they're going with the -- the...

GRACE: The three.

MILLER: Right, the first three names. And if it's not them, then they're going to go a couple more. Cary Sutton (ph) said that to me next week. So they're going to keep going until they find something, which lends into credence that there might be problems with prosecution's case.

GRACE: Whoa, whoa, whoa, wait, wait, wait! Did you say the district attorney's backing off the DNA?

MILLER: Again, he said to me that the DNA evidence was bulletproof. You can't get false positives. The next day in "The New York Times" said, Well, even if there isn't DNA, there could be condoms used. Then he said that he's not going to release the DNA. Then he said that even if he has the DNA and it comes back conclusive, he might not release it until he has to.

GRACE: Why do you think that is, Kevin? I mean, what's his reasoning? Why aren't they going forward with charges? And the word tonight is we can expect formal charges sometime next week, as early as Monday?

MILLER: Right. He said that last Saturday, Nancy, but the issue here is it's been over three-and-a-half weeks. If he had the evidence, people are saying on the streets here that he should have brought the charges already. It wouldn't take long to get -- I mean, this is the biggest story ever, not only here but across the nation. I'm sure, as some people speculate, the results are back. Whether or not he, in fact, is going to release them, that is what people are waiting for. The longer he waits to release them, the more tensions build and the more credible the word on the street is that they don't have anything.

GRACE: OK, let me go back to Dr. Karl Reich, chief scientific officer for Independent Forensics. Of course, Dr. Reich, you can prove a rape case without DNA. You can prove a circumstantial rape case. But Dr. Reich, let's talk about DNA just a few more minutes. The oral swabs were taken. Explain to us how -- oh, there you go! Thanks, Elizabeth.

How do you show a circumstantial evidence case, how to prove a rape case without DNA? Believe it or not, I had to prosecute a couple rape cases, quite a few, as a matter of fact, before the advent of DNA. OK. Physical trauma. You've got possible vaginal, anal bruising and tearing. Torn clothing. Torn clothing indicates an attack. Contusions, which is a big word for bruises. Tears, broken nails, which we know we have in this case. She also said in the affidavit that she scratched one of the perpetrators' on the arm. Look for DNA under that nail, people! Emotional trauma, change in her demeanor, the outcry she makes to the first person. That would be in the Kroeger parking lot. Dishevelment. We already have that from witnesses at the Kroeger parking lot. Disbelief, anger, denial, fear.

Fear -- tonight, let me report to you that there are various news accounts that this young lady has left town. She has left town because she fears reprisal! Now, what kind of a message is that to rape victims?

Back to Karl Reich. To prove this case with DNA, if you've got three sperm donors plus the victim's own DNA, vaginal and anal, how difficult is it to isolate four DNAs?

**REICH:** You won't be able to isolate all of the contributors. They would be mixed, if they contributed to the same orifice. Excuse me. If they're mixed, you're going to have a mixture when you do the analysis, and mixtures are difficult and complicated to figure out.

**GRACE:** But they can be isolated.

**REICH:** All of the sperm would be mixed together, and you wouldn't be able to isolate the individual contributors.

**GRACE:** Maybe that, Dr. Reich, is the hold-up.

Very quickly, everybody, we've got to take a break. Let's go to tonight's "Case Alert," Liz. Convicted killer escaped from the U.S. penitentiary, Pollitt (ph), Louisiana, name Richard McNair (ph), 47, serving life sentence for murder one.