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KOERNER MIGHT ARGUE THAT SEX WAS CONSENSUAL

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Even though he was on duty, wearing a uniform and driving a marked patrol car, former state Trooper Randy Jon Koerner might claim a female motorist agreed to have sex with him in his patrol car.

Koerner, 31, was charged last week with misusing his authority as a trooper to force the woman to have sex. "It is likely that consent will be asserted as a defense," said 11th Circuit Deputy Solicitor Fran Humphries. "That is not an uncommon defense in cases like this."

Koerner declined to comment, according to his attorneys, John O'Leary and **Jack Swerling**. They said he maintains his innocence.

"We feel he will be exonerated when all of the facts come out," **Swerling** said. "The defense we offer will come out in a courtroom."

It's not clear whether Koerner had previously met or seen the woman, Humphries said.

In a tape of the traffic stop recorded by a TV camera in his patrol car, Koerner gave no indication that he planned to attack the woman, Humphries said. It depicts a routine traffic stop. There is no tape of the sexual assault.

Koerner asked the woman for her driver's license and vehicle registration, Humphries said. He then asked her to step out of her pickup for a field sobriety test.

About 3 a.m. Oct. 24, a 27-year-old woman reported that a trooper stopped her pickup on Corley Mill Road near U.S. 378.

She told investigators the trooper ordered her to follow him a short distance and then stop. He then ordered her to get in his patrol car and drove her to a nearby location, investigators said.

The trooper forced the woman to have intercourse and engaged in other sex acts, according to arrest warrants.

Koerner, who resigned from the Highway Patrol after his arrest, is charged with second-degree criminal sexual conduct and official misconduct, Humphries said.

O'Leary filed a grievance Monday with the Highway Patrol claiming the department improperly

forced Koerner to resign. The grievance asked that the resignation be withdrawn.

Investigators found Koerner used coercion, rather than physical force, in the sexual assault, Humphries said. That is why they did not charge him with the more serious crime of first-degree criminal sexual conduct.

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