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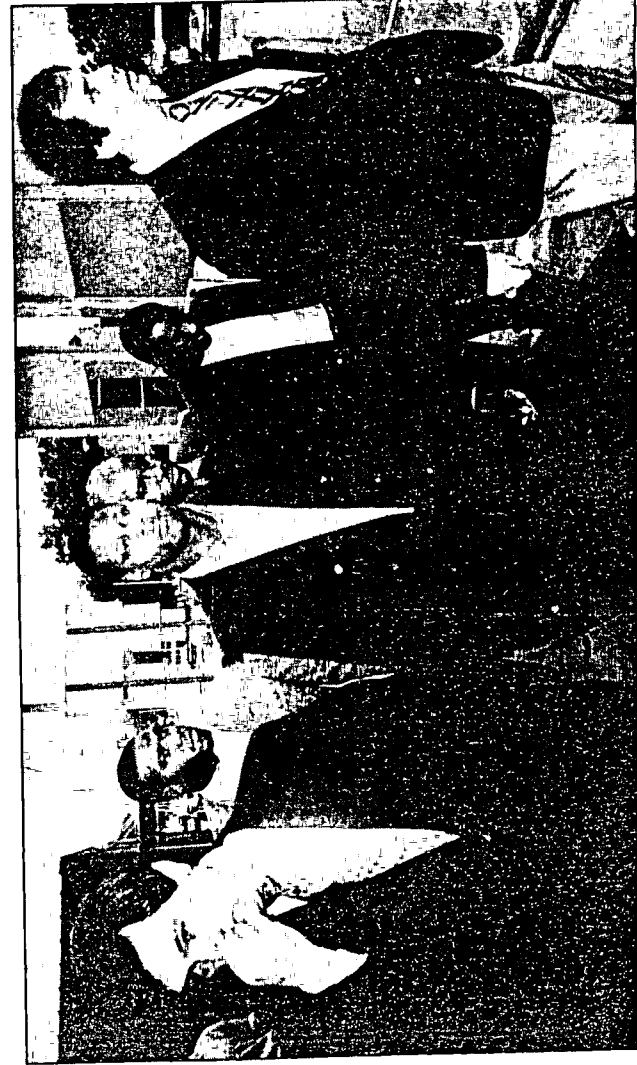
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CU Students Cleared Of Rape Charges



Staff Photo by Patrick Wright

Present and former Clemson football players, left to right, Kenny Flowers, Duke Holloman and Richard Harpoothlian, were escorted back to the main building by Clemson police officers and attorneys after the grand jury returned indictments in the case.

break in Pickens County grand jury proceedings by two of their attorneys, Richard Harpoothlian, far left, and Jack Swerling, far right. The grand jury handed down indictments in the case.

Pickens Grand Jury Questions Accused, Returns No Indictments

By Cameron Teater
Staff Writer

Attorneys for four Clemson University students said a Pickens County Grand Jury "vindicated" their clients Tuesday when it failed to hand down indictments in an alleged criminal sexual assault case.

"This is the end of the matter," said Columbia attorney Richard Harpoothlian, who represented Clemson football player Kenny Flowers during the proceedings.

The grand jury returned "no bill" decisions on 12 possible indictments presented before them. "No bill" means that the grand jury found no "probable cause" or that not enough evidence existed to prosecute the case against Flowers and his teammate A.J. Johnson and former football players Alexander "Duke" Holloman and Craig Crawford.

Flowers, Johnson, Holloman and Crawford spoke before the grand jury. Clemson City Police Lt. Gregg Masceri, two S.C. State Law Enforcement Division agents and the alleged victim also appeared before the grand jury, officials said.

Bruce Byrnholtz, an Anderson attorney who represents the victim of the alleged assault, said neither he nor the victim plan to close the case.

He said he will find out if he can appeal the grand jury's decision not to indict the players or if the victim should instead press civil action in the case.

The grand jury, proceeding surrounded by a 37-year-old woman that she was raped by Flowers, Johnson, Holloman and Crawford at an off-campus apartment complex June 20.

She filed charges against the four men and warrants were served to Holloman and Crawford by the Clemson City Police Department. Warrants for Flowers and Johnson, however, were not served by the Clemson University Police and apparently sat around their office for hours. Thirteenth Circuit Solicitor Joe Watson asked SLED to investigate how the warrants were handled.

The two SLED agents told the grand jury how the Clemson City and Clemson University police departments investigated the allegations and handled the warrants, Byrnholtz said.

Based on that testimony, the grand jury agreed that no misconduct occurred in the police handling of the alleged incident.

The woman dropped the charges 18 hours after the alleged incident after meeting with Lt. Masceri and Harpoothlian.

The meeting, officials have said, involved dropping the charges and Harpoothlian wrote an affidavit for the woman to sign, explaining how she wanted to drop the charges.

Watson reopened the case in July after the woman met with Anderson attorney V. Lantel Chapman, Byrnholtz's law partner.

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...Grand Jury

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and then requested a new investigation. Watson called for a grand jury proceeding in August.

The grand jury Tuesday offered a "no bill" decision on one count each of first degree criminal sexual conduct, kidnapping and larceny against Flowers, Johnson, Holloman and Crawford.

"These men serve as role models for numerous boys around the state including my young son and because of these allegations were put through a tremendous ordeal," said Jack Swerling, Johnson's attorney. "These men have had a good reputation and there was no doubt in my mind that they would be vindicated."

"This grand jury heard every piece of evidence that exists in the case and returned a no bill on all counts," Harpootlian said.

Byrholdt, however, called the private grand jury hearing "a trial behind closed doors."

He said the grand jury set a precedent and made a wrong move when it requested to speak to the four Clemson students.

"That was an abuse of the grand jury process," Byrholdt said.

Previous court decisions, he said, have determined that only witnesses and evidence for the prosecution should appear before the grand jury. The 16-man, one-woman jury, he said, should then have determined if enough evidence existed to prosecute the case based on those witnesses and that evidence and should not have spoken to the four students.

He said, it rendered an "acquittal" and therefore did not allow cross-examination by attorneys from both sides of the case to question all witnesses.

"I will review the case and see if we can challenge this decision with some type of appeal," Byrholdt said. "I will talk with the (alleged) victim and decide what to do."

Watson refused to comment about the grand jury's findings. He said he did not subpoena nor ask that the board listen to the four students, but that the grand jury acted on its own. It can ask to question any person it wants to about the case, Watson said.

He called his office's investigation "thorough" and added that in his mind "the case is over, period."

Before charging the jury with its duties, Judge R. Kinard Johnson excused Dr. B.J. Skelton, Clemson assistant vice president for student affairs, from serving on the jury during the case.

Skelton asked to be dismissed because he felt "conflict of interest" problems could exist if he served on the jury during the hearing about the allegations.

Kinard also told the grand jury that it could not discuss its actions with anyone.

The jury went behind closed doors in a small room behind the Pickens County Courthouse's main courtroom at 9:30 a.m. It reappeared for a 75-minute lunch break at 12:30 p.m. and stayed in its room listening to testimony and debating its decision until 6:20 p.m. After rendering a decision, it returned to the back room to hear evidence in several other cases.

Numerous newspaper, television and radio reporters packed the lobby outside the courtroom waiting to hear some word from the grand jury.

They questioned officials with the solicitor's office, Harpootlian and Swerling, Byrholdt and others many times about where the case stood, but received no information.

After talking to the grand jury, the alleged victim, who was openly upset, walked by reporters, leaning on the arm of her tall son, a former Clemson football player.

Flowers and Johnson slipped quickly through the lobby and past reporters before the proceedings began and left minutes later.

Flowers and Johnson reappeared outside the courthouse with Holloman and Crawford soon after the jury took its lunch break.

They and their lawyers ate lunch at the Feed Room Restaurant downtown, while reporters and cameramen congregated on the sidewalk outside to get a shot at a picture or a quick comment.

Clemson players not indicted

By PETER O'BOYLE III
State Staff Writer

PICKENS

The Pickens County grand jury determined Tuesday that there was not enough evidence to bring four past and current Clemson University football players to trial on rape charges. The grand jury of 17 men and one woman deliberated all day and heard about a dozen witnesses before deciding not to indict the young men on charges of criminal sexual conduct, kidnapping and larceny.

Kenny Flowers, Clemson's star tailback who has been touted as a possible Heisman Trophy candidate, told reporters he had been confident all along.

"We, as athletes, have to put up with this,"

Flowers said. "We have some great lawyers working for us, and we knew it would go this way."

Flowers and defensive back A.J. Johnson had never been arrested or charged in the case. Former team members Craig Crawford and Duke Hollomon were charged, but those charges were later dropped and had not been reinstated prior to Tuesday's grand jury decision.

The players' accuser was a 37-year-old woman whose son had been a member of the team until this season. The woman told investigators she was getting gas at a Clemson service station when she was approached by Crawford on June 20.

She said she was forced to drive to Craw-

ford's apartment, where she was raped by Crawford and two or three men whom she could not identify. She also said some jewelry was stolen.

Crawford told investigators he was approached by the woman, who was attempting to buy drugs and who later willingly consented to sex.

The woman, all four of the men and a number of law enforcement investigators testified before the grand jury Tuesday. The jurors announced their decision about 6:30 p.m.

"We need to move on and get on with the (football) season," said Johnson's attorney, Jack Swerling of Columbia.

But the lawyer for the woman, Bruce Byr-

holdt, called the grand jury proceedings "unprecedented and disappointing."

"I've never seen a grand jury where they talked to the defense witnesses," Byerhol said. "What they held today was a trial behind closed doors and without a judge."

He added that his client might file a civil lawsuit against the four men.

The grand jury began deliberating the case at 9 a.m. The group was composed of 15 white men, two black men and one white woman. Or grand juror, Clemson University Dean B. Skelton, was excused from considering the rape charges.

See Clemson, 4

Clemson

From 1-A

The first witness, the alleged victim, entered the Pickens County Courthouse with a sweater pulled over her head. She testified about 45 minutes, and then jurors began hearing from investigators.

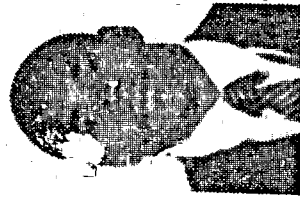
The officer who reportedly spent the most time with the grand jurors was Lt. Gregg Masceri of the Clemson Police Department.

Masceri's original investigation of the woman's allegations was widely criticized. Advocates of rape victims' rights complained because the Clemson Police Department never served arrest warrants on Flowers and Johnson. The warrants were delivered to the Clemson University Public Safety Department but never served, reportedly because of procedural problems.

Law enforcement officials also were criticized because they allowed Flowers' attorney, Richard Harpoothian of Columbia, to meet with the victim within hours of the alleged assault



Flowers



Johnson

in the handling of this matter." Throughout the day, more than a dozen reporters and television camera operators crowded into the smoky courthouse lobby, awaiting word of the grand jury's decision.

About a half-hour after the jury began its morning deliberation, Family Court Judge Kinard Johnson took the unusual step of convening the grand jury in the courtroom along with the press to lay down ground rules for media coverage of the day's events.

Johnson ordered the media not to congregate in a hallway outside the grand jury room. He also admonished the jurors not to talk to the press about their procedures and deliberations and asked the press not to question the jurors about the case.

"Their deliberations are secret, and they're not to talk to anyone, including the press," Johnson said.

Clemson Head Football Coach Danny Ford never commented on what formal action he planned to take against Flowers or Johnson if they were indicted. Both players continued to work out with the team, which opens its season Sept. 13 with a home game against Virginia Tech.

9.3.80

Grand jury clears 4 in Clemson case

By TOM COYNE
Associated Press writer

PICKENS — Attorneys for four current and former Clemson football players say their clients were vindicated by a Pickens County grand jury's decision not to indict them, but the alleged victim's attorney said the court system failed her.

The four players — tailback Kenny Flowers and defensive back A. J. Johnson and former players Duke Holloman and Craig Crawford — sat in a nearby room most of Tuesday afternoon while the grand jury listened to testimony on whether they should be indicted for criminal sexual assault, kidnapping and larceny.

About 6:30 p.m., after hearing more than 7½ hours of testimony, the grand jury returned no bills of indictment on the three separate charges against each man.

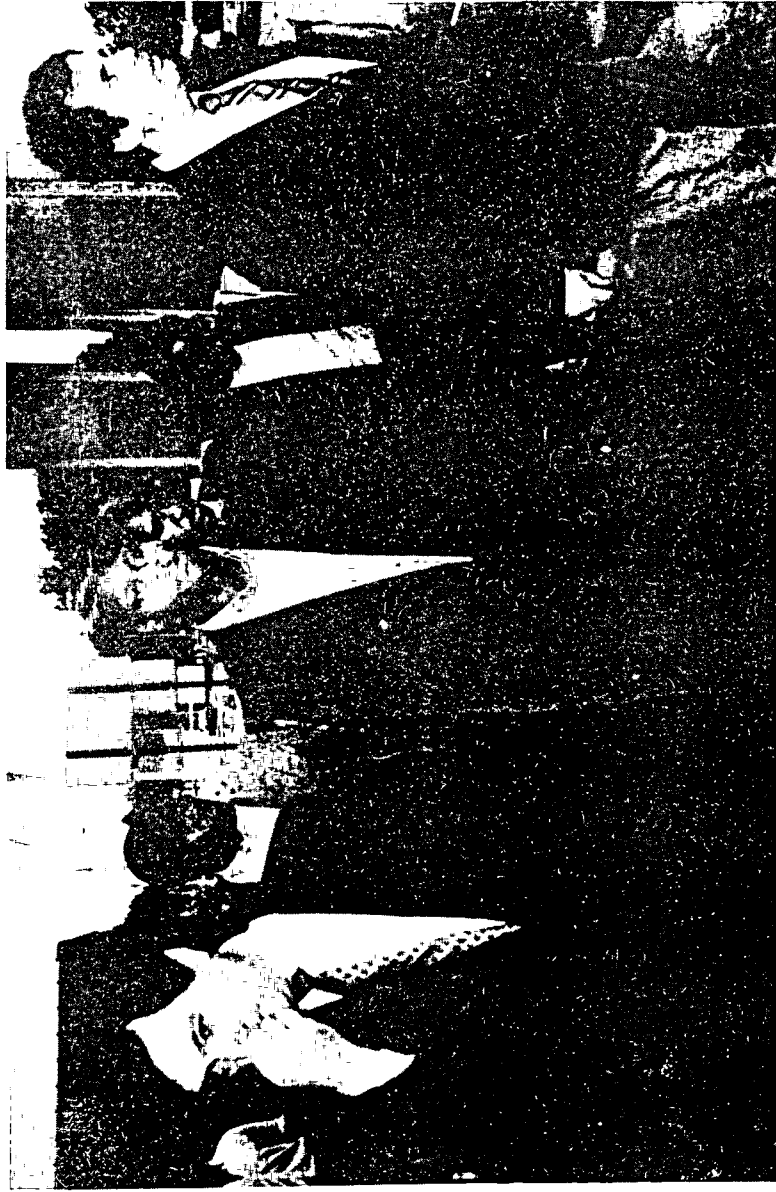
Richard Harpoothlian, Flowers' attorney, accused the news media of trying the case before it reached the grand jury. He singled out The Greenville News for its editorial position on the case and criticized The Messenger, a weekly newspaper published in the town of Clemson, for a story it published last week.

"All they care about is the First Amendment," Harpoothlian said. "They don't care about the other amendments."

Attorney Bruce Byrholdt, who represented the unidentified woman, said Tuesday following the grand jury's decision that he thought the "grand jury system had been abused today."

"Their only job is to decide whether there was probable cause, not hand down a verdict," Byrholdt said. "What you had here was a case being heard without lawyers and prosecutors being present."

It is "unheard of" for defendants to testify before a grand jury, he



AP Laserphoto

ON THE WAY TO COURTHOUSE

Richard Harpoothlian, right, and Jack Swertling lead A.J. Johnson, from left, Kenny Flowers, Duke Holloman, Craig Crawford

said. His client is considering filing civil suits against the players, he said.

All four players testified, and Byrholdt said Clemson Police Lt. Gregg Masceri, a State Law En-

forcement Division Agent and the 38-year-old Waihalla woman also testified before the grand jury. Solicitor Joe Watson said others also testified, but declined to identify them.

The solicitor said he subpoenaed

the victim, two SLED agents and Masceri, but it was the grand jury that asked to hear from the four students.

Jack Swertling, who represented Johnson, said the players had been

treated unfairly but they had been "vindicated." The football players are role models for children, and it was unfair the way the media portrayed them, he said.

The grand jury, which was made

up of 17 men and one woman, also found there was no impropriety or criminal wrongdoing by Clemson city police or the Clemson University office during their involvement in the investigation.

SLED had investigated why warrants sat for 12 hours at the public safety office without being served, although a university recorder, who has jurisdiction similar to a magistrate, was available to countersign them and police knew that Flowers and Johnson were on campus at the Jervey Athletic Center.

Arrest warrants were drawn after the woman, the mother of another player, reported she had been attacked by four men on June 20.

But the charges against Crawford and Holloman were later dropped, and warrants against Flowers and Johnson, both expected to be starters on the Clemson football team this year, were drawn and signed by a judge but needed to be countersigned by a judge in the Clemson University jurisdiction before being served.

The charges were withdrawn before the warrants were countersigned and served.

Watson declined to comment on what he thought of the grand jury's decision, saying, "I never criticize or commend a judge's decision or a jury's verdict."

But Watson did say he was pleased that his office had presented a good case.

"We left no stone unturned, and the State Law Enforcement Division did a very thorough job," Watson said.

The four men had little to say following the decision.

"I was happy, of course," said Flowers, who has been touted as a Heisman Trophy candidate. "I'm just glad it's over. So now I can concentrate on football."

Digest

Grand Jury Clears 2 Players

From Staff Reports

A Pickens County grand jury studied the evidence and returned no bills of indictment in an alleged sexual-assault case involving two current and two former Clemson football players.

The grand jury, after more than seven hours of testimony and deliberation, found "no probable cause" to indict Kermy Flowers, A.J. Johnson, Duke Holloman, and Craig Crawford on sexual assault charges.

The grand jury also found "no evidence of impropriety or criminal wrongdoing" on the part of the Clemson University police or Clemson City Police Department in connection with the handling of rape warrants against Flowers and Johnson.

Circuit solicitor Joe Watson said he planned no further action involving the rape allegations. "There is no other action I can plan," Watson said. "The criminal justice system has spoken...I never question a jury's verdict, a judge's sentence or a grand jury's decision."

Watson said investigators "left no stone unturned in this case...We disco-

vered every bit of evidence that was discoverable. We presented it to the grand jury. The grand jury spoke."

Columbia attorney Jack Swerling, who represented Johnson in the case, said, "it's the best victory I've had in 14 years. We're ready to move on, get these kids back to school and get this (football) season underway."

Attorney Richard Harpoottian, who represented Flowers, criticized the handling of the story of the investigation by the press, and was specifically critical of stories and editorials in The Greenville News and The Clemson Messenger.

Watson said he had problems with "reckless" statements which were reported in the press. "I'm not criticizing the press," he said. "I'm criticizing those people who made those reckless statements."

Clemson coach Danny Ford told WSPA-TV in Spartanburg that, "it was a no-win situation because it involved our whole family of football at Clemson. We're very sorry the whole thing happened and hopefully now we can get on with our football season."

Flowers told reporters that he was glad to get the investigation behind him.

"We're just glad it's all over," he said. "Up until now it's been rough. But after today, we're glad that justice has prevailed."

"I was happy, of course," Flowers added. "We knew we had some great lawyers working for us, and we knew it would end up this way...I'd like to thank Coach Ford and the coaching staff and everybody at Jervey (Athletic Center) for standing behind us through this whole thing."

Johnson and Crawford said the grand jury's decision was a relief to them.

"Naturally, we were upset and worried about it," said Johnson. "I was more concerned about my family. I knew I was innocent. But I would like to thank the people who stood behind us."

"There were a lot of sleepless nights and a lot of foot-tapping going on," said Crawford.

During a brief news conference last Thursday, Manning N. Lomax, the acting vice president of student affairs at Clemson, said the case was over. "The stu-

dents were not charged with a crime. Except for the negative publicity which could affect the public's perception, their status is unchanged from the time the situation first came up.

"We had dealt with them previously in accordance with the university's policies through reprimands and counseling."

Bruce Byrholdt, an Anderson attorney who represented the alleged victim -- the 36-year-old mother of a former Clemson football player -- said neither he nor the alleged victim plan to close the case until he explores possibilities of appeal and civil action.

Byrholdt criticized the grand jury's decision to hear testimony from the four Clemson students, calling the hearing "a trial behind closed doors."

"That was an abuse of the grand jury process," Byrholdt said.

Pro Notes...

...Former Tiger tailback Cliff Austin was expected to open the season in a starting role with the Atlanta Falcons. Austin

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TIGER TRAVELS

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Charlotte Observer, The (NC)

September 3, 1986
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Section: METRO
Page: 1B

Topics:
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SEX CRIME SC VERDICT

GRAND JURY CLEARS 4 CLEMSON STUDENTS IN KIDNAPING CASE
Author: HENRY EICHEL, Columbia Bureau

Dateline: PICKENS, S C

Article Text

Four current or former Clemson University football players, including Heisman Trophy candidate running back Kenny Flowers, were cleared by a grand jury Tuesday of allegations arising out of a June incident near the Clemson campus.

The grand jury spent nine hours hearing witnesses in the case, including Flowers, defensive end A. J. Johnson and former players Craig Crawford and Duke Holloman. All are currently Clemson students.

The grand jury announced no-bills on allegations of kidnaping, first-degree criminal sexual conduct and larceny involving an N.C. woman, the mother of another Clemson player.

Also, the grand jury said it had determined there was no impropriety or criminal wrongdoing in the Clemson town police department's handling of the matter.

Flowers said afterward: "I'm just glad it's over. I'm ready to play ball. We knew it would end up this way."

Dick Harpootlian, an attorney for Flowers, criticized newspaper reports about the incident.

Another attorney for the players, Jack Swerling, said: "These are some of the finest young men you are ever going to meet."

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Arrest warrants were drawn after the 38-year-old woman reported she had been attacked by four men on June 20 after being abducted from a Clemson gas station. However, witnesses have said the woman was trying to buy drugs at the station and entered a car willingly with one of the men.

Crawford and Holloman were charged with first-degree criminal sexual conduct, but the charges were dropped. Warrants for the same charges against Flowers and Johnson were drawn and signed by a judge but needed to be countersigned by a judge in the Clemson University jurisdiction before being served.

The charges were withdrawn before the warrants were countersigned and served.

The State Law Enforcement Division (SLED) investigated why the warrants sat for 12 hours at the Clemson University public safety office without being served, although a university recorder was available to countersign them.

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