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Ex-student sues, says Mercer ignored rape

Norman Arey - Staff
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A former Mercer University student has filed lawsuits against the college and a fellow student contending she was sexually assaulted two years ago at a fraternity house on campus.

In a lawsuit filed Jan. 10 in federal court, the woman accused the private Macon university of failing to take action on the case, even though she complained to school officials about the alleged rape.

The woman, an 18-year-old freshman at the time of the incident, filed a complaint with the Macon Police Department the same day of the attack, Jan. 10, 2003. She told police that she had been raped at Sigma Alpha Epsilon fraternity house at Mercer.

The woman's name is being withheld because she alleges that she is a victim of sexual assault.

She identified her attacker as Daniel Day, a Mercer student who is the son of state Rep. Burke Day (R-Tybee Island). In a separate suit filed in Bibb County Superior Court, the woman names Day as the defendant. The suit accuses Day of sexual battery, intentional infliction of emotional distress and false imprisonment.

Day has not been charged with a crime. District Attorney Howard Simms said Monday that the police did not send the case to his office for prosecution. "That means that they didn't feel the case was able to be prosecuted," Simms said.

Day referred all inquiries to his attorney, John G. Parker of Atlanta. Parker said his client denies all of the allegations.

"This is simply an effort to extort money from Daniel," Parker said. "We will be filing an answer to the suit and seek to get attorney's fees because it is frivolous litigation. They tried to get us to pay some money beforehand and we categorically refused to do that."

The lawsuit also says the woman reported the incident to the hospital and university officials. It accuses the university of violating Title IX, the federal law that protects women from sex discrimination at academic institutions. And it accuses the fraternity of negligence because it had a duty to protect her.

The fraternity did not return phone calls, and the university's attorney declined to comment because the school had not received a copy of the lawsuit.

The lawsuits contend that Day met the woman at a Macon bar, where she was admitted as "an under-21 guest." The suit says Day had been drinking at the SAE house in the evening and had come to the bar for its "Drink and Drown" party, where



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for \$5 patrons were entitled to all they could drink.

The woman and Day had dated previously, but the woman had broken off the relationship a month earlier, the lawsuit said.

The suits allege that the SAE fraternity had a history of sexual assault allegations on the campus of Mercer in Macon and that Day had a history of assaulting other women. Parker, Day's attorney, disputed the assertion. "I don't believe that is correct," he said.

The lawsuit contends that the woman was forced to withdraw from Mercer because she suffered from post-traumatic stress disorder, depression and suicidal thoughts.

The attorney representing the woman, Amanda Farahany, filed a similar suit on behalf of a former Berry College student last year. That suit charged that the college did nothing even though the rape victim notified school officials of multiple assaults.

Berry officials have denied any wrongdoing.

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