

People v. Brock Allen Turner

Case # B1577162

Defendant's Sentencing Memorandum

FILED

MAY 31 2016

DAVID H. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of CA County of Santa Clara
BY _____ DEPUTY

1 Michael W. Armstrong, Esq., (SBN: 87799)

2 600 Allerton Street, Suite 200\Redwood City, Ca. 94063
3 Tel. (650) 619-5977; Fax (650) 362-4198

4 Attorney for Defendant Brock Turner

JOHN SILVEIRA

5 SUPERIOR COURT OF THE STATE OF CALIFORNIA

6 IN AND FOR THE COUNTY OF SANTA CLARA

7 PALO ALTO FACILITY

8 PEOPLE OF THE STATE OF
9 CALIFORNIA,

10 Plaintiff,

11 v.

12 BROCK TURNER,

13 Defendant.

Case No. B1577162

DEFENDANT'S SENTENCING
MEMORANDUM

Date: June 2, 2016
Time: 9:00 am
Dept. 89

14
15 **RECOMMENDATION**

16 I am the attorney of record herein for defendant Brock Turner. This memorandum sets
17 forth his analysis of this case, and the defendant's recommendations to the court for sentencing.
18 This case is not a prison case, and defendant respectfully asks the court to follow the
19 recommendations of the probation department, find unusual circumstances, place him on
20 probation for three to five years, order him to serve a 4-month county jail sentence, and impose
21 the conditions of probation recommended by the probation department. Also, the defendant asks
22 the court to not just apply Penal Code section 654 to counts 2 and/or 3, but to consolidate count
23 2 and count 3 into one conviction because there is only one act of digital penetration, pursuant to
24 the reasoning of People v Craig (1941) 17 C. 2d 453.

25 THE ACCOMPANYING MISDEMEANOR CASE
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1 Defendant has no prior criminal record, although in the misdemeanor case also on
2 calendar for this date, he is charged by citation with being a minor in possession of alcohol. It is
3 defendant's hope in that case that the DA or the court will dismiss that charge, thus obviating the
4 need for a one-year license suspension which would represent an additional impediment to Mr.
5 Turner's rehabilitation. This result, a dismissal, is what happens in 99% of similar cases in the
6 Palo Alto court when a student takes the necessary classes and shows proof to the court.
7 Attached as Exhibit A is Mr. Turner's completion of the class. Also, and contrary to the DA's
8 contention, Mr. Turner was not cited for having a fake ID, as can be seen by a careful reading of
9 the police report. Another cited individual had the fake ID, not Mr. Turner, and the police
10 officer simply erred in the narrative of the report by inserting Mr. Turner's name instead of the
11 other person.

12 THE PROBATION REPORT

13 A very experienced probation officer, Monica Lassetre, prepared this probation report,
14 and she had the added benefit of being able to meet with Mr. Turner in person when he flew in
15 from Ohio to meet with her on May 9, 2016. Her case evaluation, on pages 11 and 12, is very
16 clear that Mr. Turner expressed sincere remorse and empathy for the victim, stating "Her (the
17 victim) having to go through the justice system because of my actions just... it's unforgivable."

18 In his written statement attached to the probation report, and recognized by Ms. Lassetre,
19 Mr. Turner adds, "Not only have I altered my life, but I've also changed XXXXXX's and her
20 family's life. I am the sole proprietor of what happened on the night that these people's lives
21 were changed forever. I would give anything to change what happened that night. I can never
22 forgive myself for imposing trauma and pain on XXXXXX. It debilitates me to think that my
23 actions have caused her emotional and physical stress that is completely unwarranted and
24 unfair."

25 It appears to defense counsel that Ms. Kianerci would never accept these words and
26 feelings as genuine remorse since it doesn't help her case to admit that, so I am not sure that
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1 more can be said or done by Mr. Turner in that regard. I am sure she wants Mr. Turner to state
2 that he knowingly intentionally and feloniously committed these crimes, but Mr. Turner has
3 given a statement to the police on the night he was arrested, testified at trial, and told the
4 probation officer his version of events, both orally and in writing. The fact remains that, even
5 after the trial in this court, no one can pinpoint exactly when the victim went from being
6 conscious to being unconscious. No one other than Mr. Turner can state with any certainty
7 whether the victim was unconscious or not when the digital penetration occurred, although Mr.
8 Turner and his family and defense counsel have to and do accept the jury's verdicts as to each
9 count for purposes of sentencing, which means that the prosecution proved beyond a reasonable
10 doubt to the jury that she was unconscious when that happened based on the circumstantial
11 evidence presented. Mr. Turner's recitation of events has never changed from day one in its
12 essence, as evidenced by the attached Exhibit B which was Mr. Turner's email to defense
13 counsel on January 28, 2015, stating the facts of the case as he remembered them then. It is very
14 important to note that this email was sent before the police reports were available, so he had not
15 had the benefit of any facts other than his own memory, and he was no longer a member of the
16 Stanford community and had been banned from campus. For these reasons, Mr. Turner's
17 perception of these events remains unchanged.

18 In addition, Ms. Lassetre completed risk assessment evaluations of Mr. Turner which not
19 surprisingly found his risk to be low-moderate on the Static-99R, and on the CAIS, which
20 identifies Principal Service Needs, all three needs identified can be addressed completely in a
21 probationary setting.

22 With regard to the applicable Judicial Council Rules, no factors in aggravation are
23 identified, while no prior record is identified as a mitigating factor under Rule 4.423(b)(1). And
24 with regard to Rule 4.414, criteria affecting the decision to grant or deny probation, probation
25 has identified four favorable factors, including absence of a weapon, degree of monetary loss,
26 lack of criminal sophistication and not involving taking advantage of a position of trust. The
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1 first unfavorable factor is (a)(3), vulnerability of the victim, which is an element of the offenses,
2 the victim being unconscious or intoxicated or both. The next unfavorable factor is (a)(4),
3 infliction of physical or emotional injury. One cannot doubt the emotional injury to XXXXXX,
4 although reading her statement carefully the fact that no one from the DA's office or other victim
5 agency contacted her for two weeks afterwards, the fact that the DA decided to show as many
6 photos of her at trial as they did when it was undisputed that she was unresponsive when found
7 by the bicyclists, most of the offensive questions asked were asked by the prosecutor and the fact
8 that she had no memory of the incident and thus her credibility was not at issue are factors that
9 she appears to detail as well. And she talks about the media exposure which I certainly
10 understand is a negative factor, but let's review who brought that about.

11 MEDIA COVERAGE

12 The Santa Clara County DA's office began the legal process by filing 5 felony counts.
13 Two of these, the original counts 1 and 2 of the complaint, were rape charges requiring proof
14 beyond a reasonable doubt of sexual intercourse. These charges, and the resulting headlines
15 nationally and internationally, made XXXXXX and Brock Turner the focus of interest beyond
16 anything that should have happened. These two counts had no basis in fact then, and were filed
17 in direct violation of the DA's office policy about when charges can be filed, and were an
18 unethical violation of the prosecution's power. The DA's own website then explained that, "The
19 prosecutor can authorize a charge(s) if he/she reasonably believes probable cause exists that the
20 suspect committed the offense, and he/she reasonably believes the charge can be proven beyond
21 a reasonable doubt at trial with the information known at that time." Ms. Kianerci then let those
22 false charges pend for about 9 months against Mr. Turner, knowing they could never be proven,
23 until the time of the preliminary hearing when she left it to the court to dismiss those two charges
24 for lack of any evidence at that hearing. When you couple this beginning of the criminal case
25 with the desire to put campus sexual assault in the US on trial, you have publicity for all
26 involved, for better or for worse. The defense, in contrast to the prosecution, has had no press
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1 conferences and has basically not talked to the media in spite of many requests.

2 THE DA's SENTENCING MEMORANDUM

3 Focusing next on the DA's Sentencing Memorandum, it is painfully obvious that Ms.
4 Kianerci is on a mission of much greater magnitude than the sentencing of Brock Turner. She,
5 and some of the contributors to her exhibits, are basically telling the court to send a message by
6 sentencing Mr. Turner to prison, ignoring the recommendation of the probation department as to
7 incarceration because "it should not even be objectively considered", so that 1) Stanford
8 University will take the issue of sexual assault more seriously, 2) campuses across the United
9 States will take the issue of sexual assault more seriously, 3) sexual assault victims everywhere
10 can feel more empowered, 4) future sexual assaults on campuses will be deterred, 5) these
11 convictions will be seen as serious crimes, 6) the Stanford community does not become a more
12 dangerous place for all, and 7) the probation department can be put in its place for preparing a
13 one-sided consideration of solely the defendant's interests, thereby perpetuating the stigma,
14 which the report reeks of, that campus sexual assaults often receive by a small portion of the
15 community. For the court to do this, they want the court to ignore Judicial Council Rule
16 4.413(c)(2)(C) that Mr. Turner is youthful and has no significant record of prior criminal
17 offenses, to ignore that "technically" the fact that the victim was particularly vulnerable is an
18 element of the crimes, to find that the defendant's prior conduct (the minor in possession
19 citation) renders him a continuing threat to the community (and to state that the conduct the
20 weekend before, partially included in Exhibit 2, represents sexual advances is quite overstated),
21 and to completely ignore the probation department's well-reasoned conclusion, supported by
22 numerous character reference letters, that Mr. Turner has expressed true remorse for his conduct.

23 These contributors to the exhibits are certainly entitled to their opinions, but whether they
24 actually assist the court in its decision is for the court to decide. Just so the court may review one
25 recent opinion from the Stanford community in Mr. Turner's favor, attached as Exhibit C is an
26 op-ed from the Stanford Daily this past week.

1 With regard to the victim's revised thoughts about sentencing, it is, of course, her
2 prerogative to say that she was misquoted and her statements were taken out of context, and/or
3 that she has changed her mind now that Ms. Kianerci, her idol, has talked to her about it. The
4 probation officer, however, placed quotation marks around her statement on page 5 of the report,
5 noting that XXXXXXX said, "I don't want him to rot away in jail; he doesn't need to be behind
6 bars." Ms. Kianerci tries to explain away these statements on page 23 of her Memorandum by
7 saying that XXXXXXX did not understand that her expressions of empathy would be used against
8 her, and that she now is upset that her words were used to assume that she did not want the
9 defendant to be punished for his actions. Nothing is being "used against her" here, and Mr.
10 Turner is most certainly going to be punished for his actions.

11 OTHER SENTENCING CONSIDERATIONS

12 It now appears to be generally accepted that young peoples' development is not generally
13 complete until at least the age of 23, and this factor should be considered by the court when
14 deciding whether or not to send a youthful offender to state prison when a probationary sentence
15 would most likely serve the same purpose in terms of rehabilitation and accountability. Senate
16 Bill 261, recently signed into law by Governor Brown on October 5, 2015, provides for
17 consideration at parole hearings of the fact that the offender was 23 years or younger at the time
18 of the offense, recognizing that youth of that age have a 'diminished culpability' as compared to
19 that of adults. This fact by itself, of course, does not mean that youthful offenders should never
20 be sent to prison, but that they should not be if the goals of sentencing – punishment, deterrence
21 and rehabilitation – can be accomplished in a less restrictive manner.

22 Mr. Turner presents as an excellent candidate for probation in this regard. He is a
23 fundamentally good young man from a good family with a record of real accomplishment who
24 made bad choices during his time at Stanford of about 4 months, especially related to alcohol,
25 and the 20 minutes or so during the night of January 17-18, 2015 when he committed these
26 serious crimes have already caused him to be banished from the Stanford campus, kicked off the
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1 swim team which would have been training right now for the Olympics, soon-to-be registered as
2 a sex offender for life pursuant to Penal Code section 290, a convicted felon for life, and a young
3 man who will always be identified in print and social media by this conduct and these crimes.
4 His choices about employment, housing and other crucial life decisions will always be affected
5 by his crimes. The issues he has with alcohol and drugs, and, therefore, decision-making, can be
6 better and more effectively addressed by conditions of probation for a term of years than by any
7 length term in state prison, and serve as a deterrent to the commission of any future crimes. He
8 is truly remorseful, and, as indicated in the probation report, stands ready to accept the court's
9 sentence and turn this experience into something positive for himself, his family and others.

10 I also call the court's attention to the numerous character reference letters attached to the
11 probation report. I call particular attention to the excellent letter from Dean Olson, the Program
12 Director of the Division of Aerospace Medicine Residency Program at the Wright State
13 University School of Medicine, who speaks so eloquently of getting to know Brock recently. He
14 has the unique perspective of knowing Brock in a social setting, swimming with him, talking to
15 him about what happened, and from a medical perspective understanding the effect alcohol has
16 on people in general and on Brock's decision-making in this case. He also speaks to the remorse
17 and empathy that Brock demonstrates.

18 CONCLUSION

19 Mr. Turner asks, Your Honor, for the chance to prove to you and everyone in the court
20 system in this case, as well as to the Stanford community and the larger community, that he can
21 serve out his punishment, succeed on probation, and once again become an important
22 contributing member of society. Thank you for your consideration.

23
24 Respectfully submitted this 30th day of May 2016.

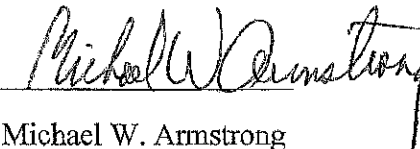
25 
26 Michael W. Armstrong

EXHIBIT A

Stanford | Office of Alcohol Policy and Education

ALCOHOL EDUCATION COMPLETION SUMMARY FORM

To: Lisa de la Cruz - Caldeza

Referring University Official

This form confirms that Brock Turner ID# 5929269
has satisfied all of the requirements for alcohol education from the Stanford Office of Alcohol Policy & Education

DATE COMPLETED: 01.20.14

STUDENT SIGNATURE: [Signature]

STAFF SIGNATURE: [Signature]

- Completed 1 hour 1:1 meeting with Residence Dean
- Completed 1 hour 1:1 meeting with Office of Alcohol Policy & Education Staff
- Completed alcohol self-assessment reflection and survey
- Completed 3 hour online alcohol education course
- Completed 3 hour intensive group alcohol education seminar

Please contact Ralph J. Castro, Associate Dean of Student Affairs and Director, Office of Alcohol Policy & Education at 650-723-3429 or ricastro@stanford.edu for questions or concerns.

EXHIBIT B

Michael Armstrong

From: Brock Turner [REDACTED]
Sent: Wednesday, January 28, 2015 4:57 PM
To: Michael Armstrong
Subject: Timeline of Events on 1/19

Here is a timeline of the events that took place during that night: I just thought I would let you know exactly what happened from my perspective.

- 1) I was outside Kappa Alpha Fraternity on the patio area with Tom Kremer
- 2) We are talking and see two girls, who we begin to talk to
- 3) While still outside, I find myself alone with the girl
- 4) I ask her if she wants to go back to my dorm, which she responds, "yes" to
- 5) We start walking towards my dorm, she is walking next to me on my right side
- 6) She trips slightly and starts laying on the ground
- 7) I kneel down next to her
- 8) With one arm, she pulls me into her
- 9) We begin kissing and getting hands-y, which leads to me touching her breasts while she has her hands on my back
- 10) I ask if I can finger her, to which she responds, "yeah" seductively
- 11) I begin to touch her vagina and proceed to take off her underwear and pull up her dress slightly, placing her underwear next to us
- 12) Laying on the left side of her, I begin to finger her with my right hand
- 13) While I am fingering her, her head is turned away from mine and I am kissing her cheek. During this time, I am on top of her, lightly thrusting against her. Her position on the ground was face up, with her arms slightly bent by her head
- 14) I ask her if she's enjoying it, to which she responds, "uh-huh" while she was moaning (she was moaning and grinding against me with her hips the entire time I was fingering her)
- 15) I begin to feel dizzy and sit up to the left of her, trying to re-orient myself
- 16) I stand up and immediately stumble on the slope, partially sliding down it
- 17) I begin to walk away, but then at least one guy approached me and held my arms behind my back
- 18) My first instinct was to run away because I thought they were going to hurt me, but I was quickly tackled by one of the guys and held on the ground by that guy until the cops came and handcuffed me.

I just wanted to relay this information to you because I thought it is important that you have a succinct and accurate breakdown of the events from my perspective to reference in the future.

Thank you,

Brock Turner

EXHIBIT C

OPINIONS

A CASE AGAINST BROCK TURNER'S INCARCERATION

Op Ed

By: Op Ed

Dear Stanford,

Recently, I was forwarded a letter and petition from the co-founders of the Stanford Association of Students for Sexual Assault Prevention, Stephanie Pham and Matthew Baiza. While I do appreciate that Stephanie and Matt have their hearts in the right place to help victims of sexual assault, their enthusiastic advocacy for locking Brock Turner, a former Stanford undergraduate, in prison for a mandatory minimum sentence of 2 years has been weighing heavily on my heart. I feel that their petition reflects neither the values of the Stanford student body nor the vast amount of university research concerning the detrimental effects of incarceration.

It seems that Stephanie and Matt believe that a harsh sentence for Turner will set a precedent allowing more women to report sexual assault in the future. Their stated position is that "The concern becomes one about helping survivors feel that they can come forward. Our concern is that when a sanction doesn't correspond with the action, it will deter victims from reporting because they feel that the system did not adequately provide justice. This case has larger implications for this campus and students' views on sexual assault."

Unfortunately, their point of view does not hold up against the academic body of research concerning sexual assault reporting and prevention. There is no research to suggest that harsh sentences increase reporting rates of sexual assault. There are many reasons why someone would choose not to report, and harsh sentences may actually deter victims from reporting in the first place, in cases where the victim does not want to impose harm upon another individual. On the other hand, the research does show that long prison sentences are debilitating and extremely cruel to the incarcerated and their loved ones. Locking people up does not rehabilitate them and too often causes massive trauma and psychological damage. If we are not absolutely confident that incarcerating Brock Turner for a minimum of two years (and up to 10 years) will help victims or increase reporting rates, then we are advocating for hurting another individual with dubious benefit for anyone. This is very concerning.

The facts of the case have already been pored over by a jury, and Turner has been declared guilty. Brock Turner fingered a girl while she was passed out from alcohol intoxication. This type of behavior is not acceptable and should be condemned without qualification. Sexual assault is an insidious crime that robs an individual of their dignity, sense of self worth and faith in others. As a Stanford community, we must reject this type of behavior and work tirelessly to change the culture from which it stems.

And we have done as much with this case so far. Brock Turner has been expelled from Stanford. He has been convicted of felony crimes. Turner's face has been painted across social media and national headlines as the epitome of rape culture and campus sexual violence. With his felony conviction, Turner will effectively become a second-class citizen with restricted access to education, employment, housing, adoption, loans and credit, voting, professional licensing, not to mention the huge blow to his reputation online, which will haunt him for the rest of his life. He will experience significant psychological suffering and overwhelming isolation from the rest of society. His guilt and regret will surely follow him forever. The life that he imagined as a wide-eyed Stanford freshman during NSO is utterly ruined.

Stephanie and Matt claim that we need to incarcerate Turner in order to "affirm the dignity of survivors." Let me be clear: Incarceration neither heals a victim's trauma nor affirms their dignity. Justice is not served in vengeance. We do not help the cause of anti-violence by putting humans in cages. As a sexual assault activist, when you start to advocate for harsh punishment, you lose the moral high ground of protecting victims and become a perpetrator of violence yourself. While it is true that much of the time, people who commit sexual assault go completely unnoticed and unpunished, we must not overcompensate by scapegoating guilty individuals with sentences that break them. In the great empire of mass incarceration, the United States, we often ignore the realities of state-sanctioned human suffering. We forget that all of us are extremely fallible. Those who break the law are redeemable. Those who hurt others can be forgiven.

I call on all Stanford students to direct their efforts towards empathy and love. We must help victims of sexual assault, not destroy the souls of young men who commit crimes. We must lead the nation against campus rape culture and transform our own community, but not lose sight of the higher values that define who we are as individuals. There are numerous ways to get involved in preventing sexual violence that do not hurt other people and I hope that we can adopt many of these principles within the activist community on campus.

Hoping for peace, love, and compassion on campus, even when that may be difficult and unpopular,

Saunders Hayes '16

P.S.

If you have gotten this far, thank you for reading. I have always been afraid to speak out at Stanford in particular because of the brutality of criticism that comes with voicing your opinion publicly on this campus. All too often, we are trained to find flaws in others' arguments and attack them relentlessly for their mistakes. I hope that we are all able to keep an open mind and care for others, even in the face of disagreement.

People v. Brock Allen Turner

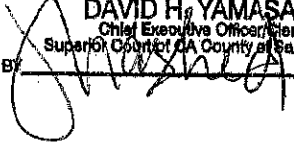
Case # B1577162

Probation Report

FILED

JUN 02 2016

IN THE SUPERIOR COURT OF THE
STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA
THE PEOPLE OF THE STATE OF CALIFORNIA,

DAVID H. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of CA County of Santa Clara
BY  DEPUTY

)	
)	
PLAINTIFF,)	REPORT OF
)	PROBATION OFFICER
vs.)	No.: B1577162
)	June 2, 2016
BROCK ALLEN TURNER,)	A. Kianerci, D.A.
)	M. Armstrong, Atty.
DEFENDANT,)	
)	
)	

COURT DATA

SENTENCING COURT: Honorable Aaron M. Persky

CHARGE: Count One, Section 220(a)(1) of the Penal Code (Assault with Intent to Commit Felony, Rape of an Intoxicated or Unconscious Person)

Count Two, Section 289(e) of the Penal Code (Sexual Penetration when the Victim was Intoxicated)

Count Three, Section 289(d) of the Penal Code (Sexual Penetration where the Victim was Unconscious of the Nature of the Act)

PRIORS: None

PROBATION ELIGIBILITY: Limited pursuant to Section 1203.065(b) of the Penal Code

DATE OF OFFENSE: January 18, 2015

DATE OF ARREST: January 18, 2015

CONVICTION: Found Guilty by Jury Trial on March 30, 2016

In the Case of BROCK ALLEN TURNER
Docket #: B1577162

June 2, 2016

CONDITIONS: None

REMAINING CHARGES: None

DAYS IN CUSTODY: 1 actual day, 0 days - 4019 PC, 1 total day;
1/18/15 bail.

AGE & DATE OF BIRTH: 20; August 1, 1995; Kettering, Ohio

SUPPLEMENTAL INFORMATION:

The defendant is not eligible for sentencing pursuant to Section 1170(h) of the Penal Code.

Based on the defendant's age, the circumstances of arrest under docket B1576943, and level of intoxication on the date of the instant offense (.13%), chemical testing and an order prohibiting use of alcohol has been included.

The defendant is also appearing today for Plea under docket B1576943, for a violation of Section 25662(a) of the Business and Professions Code, a misdemeanor (offense date: 11/15/14). In light of the instant matter, it is suggested probation be denied on this case. He has one actual day credit for time served.

SUMMARY OF OFFENSE:

The following is a summary based solely on the police report. A request for all trial information was made.

According to Stanford University Department of Public Safety report #15-018-0019U, on January 18, 2015, at approximately 1:00 a.m., deputies responded to a 911 call regarding a female who was unconscious, but breathing. As deputies approached the student residential area of fraternity houses, they found the 22 year old victim lying on the ground, behind a dumpster. The victim's dress was pulled up to her waist, exposing her vagina and buttocks and she was not wearing underwear. Her bra was pushed up above her left breast. The victim's hair and clothing were covered in pine needles from the surrounding area. Her underwear was located on the ground approximately six inches from the victim's stomach.

June 2, 2016

As deputies checked on the victim, an unknown male approached them, stating they had "him pinned down over there." The male pointed approximately 50 yards from the victim. He stated the male subject he was referring to was "...the guy who did that," and pointed to the victim.

The victim was treated by paramedics and was transported to Valley Medical Center. At the time of transport, she was still unresponsive. At approximately 4:15 a.m., the victim regained consciousness. A SART exam was conducted on the victim and she provided deputies with a statement. She stated she went to Stanford University campus earlier in the evening with her sister and a friend. They went to one party and then later, went to a party at Kappa Alpha fraternity house. While at the party, she drank beer and at one point, had to use the bathroom. There were no available restrooms in the house, so she walked outside with her sister and friend and found an isolated area to urinate before returning to the party. She did not remember being alone with any males the entire night and did not remember any sexual interaction.

When the victim was interviewed again later, she admitted having consumed several shots of whiskey and vodka prior to and/or during the party.

The victim's sister reported attending the party at Kappa Alpha fraternity house. At one point, she and the victim and the victim's friend, were outside the house, talking to a group of males. One of the males, later determined to be the defendant, was very aggressive, trying to kiss various females at the party. When he approached the victim's sister and started kissing her, she pushed him away. Later, he attempted to kiss her again, and again, she pushed him away. The victim's sister left the party to help a friend who drank too much alcohol. When she returned to the party, the police were in the area. She looked for her sister for one to one and half hours, but was unsuccessful.

The victim's friend stated she attended a party at Kappa Alpha fraternity house, but she did not have any pertinent information to report.

Officers responded to the area where the defendant was being detained by two other males. The defendant emitted a strong odor of alcohol and appeared to have an erect penis. The defendant asked the deputies what they were doing and attempted to get up, but was restrained and placed in handcuffs.

June 2, 2016

Witnesses Jonsson and Arndt stated they were riding their bicycles when movement behind a dumpster caught Jonsson's eye. He and Arndt saw the defendant on top of the female victim, who was lying on her back. It looked like they were having sexual intercourse, as he saw the defendant's hips thrust several times. Initially, Jonsson and Arndt thought it was a mutual interaction, but then noticed the victim was not moving, so they decided to make sure she was alright.

As they approached the defendant and victim, they yelled, "hey" to get the defendant's attention. He looked at them, got off the victim, and ran away. Jonsson chased the defendant while Arndt checked on the victim. Jonsson tripped the defendant and tackled him to the ground when he attempted to get away. Arndt joined him after seeing the victim was unconscious but breathing. Both witnesses held the defendant down until the police arrived.

Two other witnesses, Sinclair and Barnett, reported walking in the area when they heard a commotion and saw what appeared to be three males fighting on the ground. As they approached the group, they saw Jonsson and Arndt trying to detain the defendant.

Two other witnesses, Bolton and Robbins, reported seeing the victim lying on the ground near a dumpster. Bolton walked to the victim and saw a male standing above her, shining a light from his cellular phone on her body. Bolton checked the victim's pulse, and when he looked up, the male was gone.

At 2:25 a.m., the defendant submitted a blood sample, which yielded a blood alcohol content of .13%. At approximately 4:15 a.m., a SART exam was conducted on the defendant.

The defendant, a Stanford University student, told deputies at approximately 11:00 p.m. he attended a party at Kappa Alpha fraternity. Throughout the night, he kissed a few girls. Later in the evening, he went to the back of the fraternity house and met the victim, who was drinking beer with another female. They kissed for a while and then walked away from the house. They ended up on the ground, where he removed the victim's underwear. He digitally penetrated the victim and kissed her for approximately five minutes. He denied taking his pants off and said his penis was never exposed. At some point, he started feeling nauseous and stood up to leave when he was tackled by a group of males.

June 2, 2016

The defendant admitted consuming seven beers and a "couple swigs" of fireball whiskey before meeting the victim. He stated he had a good time with the victim and stated she seemed to enjoy his company.

On January 21, 2015, the victim's sister and friend [REDACTED], identified the defendant through a photo line-up.

On January 18, 2015, the defendant was arrested and was booked into the main jail.

VICTIM'S STATEMENT:

Correspondence has been sent to the victim(s) in this case advising of the date, time, and place of sentencing, the right to be present and to be heard pursuant to Section 1191.1 and 1191.2 of the Penal Code, as well as requesting information regarding any losses suffered.

On May 3, 2016, this officer spoke with Jane Doe. She will be present in Court today and would like to address the Court regarding the impact of the crime.

The victim submitted a Victim Witness Claim for counseling services and an ambulance ride on the date of the instant offense. According to Elizabeth Sanchez of the District Attorney Restitution Services, the victim and her sister have active restitution claim accounts, but have yet to submit actual bills for their losses. Once bills are submitted, their claims will be paid and restitution will be requested by the Victim Compensation and Government Claims Board.

Regarding sentencing, the victim stated, "I still feel a lot of anger because of what he put me through at trial. I want him to be sorry and express remorse. He attacked my personal life in whatever way possible and in the end, it didn't work. I don't experience joy from this. I don't feel like I won anything. It was just the anger of hearing what he said in Court. It was devastating. I want him to know it hurt me, but I don't want his life to be over. I want him to be punished, but as a human, I just want him to get better. I don't want him to feel like his life is over and I don't want him to rot away in jail; he doesn't need to be behind bars."

June 2, 2016

The victim further stated she would like the defendant to be ordered to participate in counseling to ensure something like this never happens again. She also stated he makes her nervous and she was hopeful he would not reside in the Bay Area.

DEFENDANT'S STATEMENT: (Attached)

On May 9, 2016, this officer interviewed the defendant at the Palo Alto probation office. He was provided with a Defendant Statement of Assets form and was instructed to bring the completed form to Court.

Regarding the instant offenses, the defendant stated he was at a fraternity party with his friends and had consumed several beers and whiskey shots. He explained, "I was very drunk. I met some people and eventually I got close with [the victim] at the party. We danced and kissed. Then I asked her if she wanted to go back to my room with me. She agreed and we were walking back to my room and she slipped on a slope behind a wooden shed and I got down to the ground with her and we started kissing. I thought we were in the heat of the moment and I asked her if she wanted me to 'finger' her and she said yes. I just thought I would take off her underwear and I 'fingered' her for a minute and we were kissing and her arms were on my back. Then we were just kissing and 'dry humping.' Then I got nauseous and I told her I needed to throw up and I got up and started to walk away. Some guy said something to me, but I couldn't really understand what he was saying. I was disoriented and focused on throwing up. He was talking to another guy in a foreign language, and then they grabbed me and I ran away, but he tackled me."

When asked about the victim's wellbeing during the instant offenses, the defendant stated, "At no time did I see that she was not responding. If at any time I thought she was not responding, I would have stopped immediately."

Regarding the impact of his conduct, the defendant stated, "Having imposed suffering on someone else and causing someone else pain-I mean, I can barely live with myself. I can't even get out of bed in the morning. I think about it every second of every day. Her [the victim] having to go through the justice system because of my actions just...it's unforgivable. If I really wanted to get to know her, I should have asked for her number, rather than asking her to go back to my room. Being drunk I just couldn't make the best decisions and neither could she. I stupidly thought it was okay for me to do what everyone around was doing, which was drinking. I was wrong."

The defendant further stated he was sorry for what he put the victim and her family through during the trial. He explained, "During the trial I didn't want to victimize her at all. That was just my attorney and his way of approaching the case. I didn't want to degrade her in any way. I regret that. I never meant to treat her like anything else than an exceptional person. I'm sorry for her having to go through this entire process and having to even think about this for a second, all because of my actions that night. I wish I could just take it back. I didn't even deserve to talk with her, to interact with her. I can't believe I imposed such suffering on her and I'm so sorry."

Although he was uncertain of an appropriate sentence, the defendant stated he was prepared to accept the decision of the Court and would comply with any Court orders. If granted probation, he would comply with the terms and conditions, including participation in a sexual offender program and sex registration.

The defendant's plans for the future include earning a degree in electrical engineering. He recently met with an Ohio judge and is in the process of establishing a program for high school and college students in which he speaks about his experience and "speaks out against the college campus drinking culture and the sexual promiscuity that goes along with that. I want to show people that one night of drinking can ruin a life. I don't want anyone to experience any part of this situation. I want to be an example so young people realize how much of an issue this is."

Regarding drug and alcohol use, the defendant admitted drinking alcohol in college. His first night at Stanford University, the sophomore swim team had a party for the incoming freshman swim team. There was alcohol at the party and at every party thereafter and he drank beer most weekends. The defendant denied ever using any illicit substances and stated he has not consumed alcohol since the date of the instant offense.

Since the instant offense, the defendant has suffered from depression. He is currently in weekly therapy and is prescribed Lexapro for depression.

The defendant was born and raised in Ohio. In September 2014, he moved to Stanford University on a partial swimming scholarship. Following the instant offenses, he withdrew his scholarship and moved back to his parents' home in Ohio. He is currently working as a team member for a company that organizes triathlons and other races. He has an older brother and sister, both of whom reside nearby.

INTERESTED PARTIES:

In the course of preparing this report, the undersigned contacted the assigned Deputy District Attorney, as Court transcripts were not a part of the information provided to probation. She stated the defendant was untruthful in his testimony regarding the victim being unconscious during the instant offenses.

The undersigned met with the defendant's attorney prior to the presentence interview; he did wish to provide additional information.

Please see attached numerous letters of reference.

RESULTS OF ASSESSMENT:

Current law requires that the risk assessment score on the Static-99R be completed by the Probation Department for every eligible person (Sections 290.04(a)(1) and 290.06 of the Penal Code). The defendant was scored on the Static-99R, an actuarial measure of risk for sexual offense recidivism, which is attached.

June 2, 2016

This instrument has been shown to be a moderate predictor of sexual re-offense potential. The defendant received a total score of 3, which places him in the Low-Moderate Risk Category for being charged or convicted of another sexual offense. His risk on release from a prison sentence cannot be calculated until his age on release on parole is known, so the risk score stated herein is predictive of risk at release on probation, based on his age at the date of this report. If the defendant has a prior conviction for a registrable sex offense, his risk score was calculated based on his age at release on the most recent registrable sex offense.

Pursuant to Section 1202.8 of the Penal Code, every person who has been assessed with the State Authorized Risk Assessment Tool for Sex Offenders (SARATSO) pursuant to Sections 290.04 to 290.06, inclusive, and who has a SARATSO risk level of high shall be continuously electronically monitored while on probation, unless the court determines that such monitoring is unnecessary for a particular person.

The defendant received a score of 3 on the Static-99R, dated May 9, 2016, which is attached. This score is in the Low-Moderate range of risk relative to other adult male sex offenders.

- RISK AND NEEDS ASSESSMENT (CAIS)

Assessment provides objective and empirically validated evaluations of an offender's risk and needs. Addressing the offender's risk and needs and matching the offender to the identified level of services are linked to changing offender behavior, appropriate use of resources and public protection.

The defendant was assessed for risk and need factors using the Corrections Assessment Intervention System (CAIS). CAIS is a standardized, validated assessment and case management system developed by the National Council on Crime and Delinquency (NCCD). The CAIS assesses a defendant's criminogenic needs and risk to re-offend. Criminogenic needs refer to those dynamic risk factors that directly contribute to criminal behavior and are most predictive of recidivism. When these criminogenic risk factors are addressed or changed they can reduce the likelihood of recidivism.

The result of the CAIS assessment has identified the defendant's criminogenic needs/risk factors also referred to as Principal Service Needs. Should the defendant receive probation, it is imperative that the supervision process begin addressing the identified needs which include the following:

Strength: Family History

It should be noted that family therapy is often a useful intervention. Staff should provide considerable support to the family, who may be under severe stress and confused by the onset of misconduct, and who may lack the skills needed to deal with associated behavior.

Need: Isolated/Situational/Temporary Circumstances as Highly Significant

This is a typical indicator for offenders in this strategy group. Problems in this area require resolving an internal problem or learning new coping skills.

Need: Alcohol and/or Drug Abuse as Highly Significant

This may be an issue for SI-T offenders and may contribute to deviation from positive behavior in other areas. The onset of their addictions may be recent and may be a means for dealing with a significant mental health issue. Treatment for alcohol and/or abuse issues should be the focus of the plan prior to addressing other concerns. Because they cannot legally access alcohol or substances in the institutional setting, monitor them for physical problems related to withdrawal and for attempts to illegally access alcohol or substances.

JUDICIAL COUNCIL RULES 4.414, 4.421 and 4.423: (Attached)

June 2, 2016

CASE EVALUATION:

The 20 year old defendant is appearing before the Court after having been found guilty by jury of Assault with Intent to Commit Rape, Sexual Penetration when the Victim was Intoxicated, and Sexual Penetration where the Victim was Unconscious of the Nature of the Act.

During the instant offense, passersby found the 22 year old female victim, unconscious and lying near a dumpster on the Stanford University campus. They reported initially thinking the defendant and victim were having consensual sexual intercourse, but then noticed the victim was not moving, so they approached. When they caught the defendant's attention, he slowly got off of the victim and backed away. The witnesses chased the defendant and detained him until police arrival. The defendant admitted having consensual sexual relations with the victim and believed she "seemed to enjoy" it.

The defendant does not have a criminal history.

During the presentence interview, the defendant expressed sincere remorse and empathy for the victim. He stated, "Having imposed suffering on someone else and causing someone else pain- I mean, I can barely live with myself. I can't even get out of bed in the morning. I think about it every second of every day. Her [the victim] having to go through the justice system because of my actions just...it's unforgivable."

The victim in this matter will forever be impacted by the defendant's conduct. When the undersigned interviewed her, she provided a clear illustration of the hurt and devastation caused by the instant offenses and the ordeal of the trial. This officer was struck by the victim's ability to objectively digest the gravity and ramifications of the defendant's behavior and while she was understandably traumatized by the experience, her focus and concern was treatment, rather than incarceration.

There do not appear to be aggravating circumstances, other than the victim was particularly vulnerable in that she was heavily intoxicated; however, the victim being intoxicated and/or unconscious of the nature of the act is an element of the crime and therefore cannot be used as an aggravating circumstance. The sole mitigating circumstance is the defendant's lack of prior convictions.

June 2, 2016

In determining an appropriate recommendation, this officer considered myriad factors, including the impact of the crime on the victim and the safety of the community. Other factors included the defendant's lack of a criminal history, his youthful age, and his expressed remorse and empathy toward the victim. During the presentence interview, the defendant demonstrated a comprehension that the victim, in her state, was unable to make an informed decision and in that moment, he had a moral responsibility to act in her best interest, which he failed to do.

Thus, although the defendant's eligibility for probation is limited, this officer believes there are circumstances which support the granting of probation, the first being the circumstance giving rise to the probation limitation in this case appears to be less serious than circumstances typically present in others involving the same probation limitation, and the defendant has no recent record of committing similar crimes or crimes of violence.

This case, when compared to other crimes of similar nature, may be considered less serious due to the defendant's level of intoxication. Secondly, with respect to his limited culpability, the defendant is youthful and has no prior convictions.

Furthermore, pursuant to the General Objectives in Sentencing (Judicial CR 4.410), which include punishing the defendant, encouraging him to lead a law abiding life, and deterring him from future criminality, this officer weighed the fact that this 20 year old offender is now a lifetime sex registrant, his future prospects will likely be highly impacted as a result of his convictions, and he surrendered a hard earned swimming scholarship. Perhaps, just as importantly, but sometimes overlooked, are the victim's wishes as to the potential outcome.

Based on the aforementioned information, a moderate county jail sentence, formal probation, and sexual offender treatment is respectfully recommended. The defendant informed this officer he intended on remaining in Ohio and did not plan on returning to California. In an effort to expedite an interstate compact transfer request, this officer suggests the defendant be remanded today.

RECOMMENDATION:

(B1577162)

1. Imposition of sentence be suspended. Formal Probation be granted for three years.
2. The defendant is ordered to go to the Probation Department within two (2) business days of release and thereafter as directed by the Probation Department. If during your term of probation you are deported, you must notify the Probation Department of your deportation within 5 days. While out of the country you must notify the Probation Department by whatever means of communication are available to you of your location or residence. If you return to the United States, you must report your re-entry to this country to the Probation Department within 5 days of your return, and report in person to the Probation Department as directed.
3. The defendant is ordered to report to the Department of Revenue within 30 days for the completion of a payment plan for fines and fees.
4. A County Jail sentence be imposed. The defendant be granted credits.
5. Restitution as determined by the Court.
6. Pursuant to Section 1203.067(b)(2) of the Penal Code, as a condition of release from Formal Probation, the defendant shall enter, participate in and complete an approved sex offender management program, following the standards developed pursuant to Section 9003 of the Penal Code, for a period of not less than one year, up to the entire term of probation, as determined by the certified sex offender management professional in consultation with the Probation Officer and as approved by the Court.
7. The defendant shall waive any privilege against self-incrimination and participate in polygraph examinations, which shall be part of the sex offender management program, pursuant to Section 1203.067(b)(3) of the Penal Code.

June 2, 2016

8. The defendant shall waive any psychotherapist-patient privilege to enable communication between the sex offender management professional and the Probation Officer, pursuant to Section 1203.067(b)(4) and Section 290.09 of the Penal Code.
9. The defendant shall pay all certified sex offender management program participation fees as determined by the Court, pursuant to Section 1203.067(c) of the Penal Code.
10. The defendant shall submit to chemical tests as directed by the Probation Officer.
11. The defendant shall not knowingly possess or knowingly consume alcohol or go to places where he/she knows alcohol is the primary item of sale.
12. The defendant shall submit his/her person, place of residence, vehicle and any property under his/her control to search at any time without a warrant by any Peace Officer.
13. The defendant shall seek and maintain gainful employment and/or maintain academic and/or vocational training as directed by the Probation Officer.
14. The defendant shall not own, knowingly possess, or have within his/her custody or control any firearm or ammunition for the rest of his/her life pursuant to Section 29800 and Section 30305 of the Penal Code.
15. A Restitution Fine of between \$300 and \$10,000 and a 10% Administrative Fee be imposed pursuant to Section 1202.4 of the Penal Code.
16. An additional Probation Revocation Restitution Fine equal to that imposed under Penal Code Section 1202.4 be imposed and suspended pursuant to Section 1202.44 of the Penal Code.
17. The defendant be ordered to register pursuant to Section 290 of the Penal Code and to comply with Section 290.85 of the Penal Code.
18. A fine of \$300.00 plus penalty assessment be imposed pursuant to Section 290.3 of the Penal Code.

June 2, 2016

19. The defendant shall submit to a blood test for evidence of antibodies to the probable causative agent of acquired immune deficiency syndrome (AIDS), pursuant to Section 1202.1 of the Penal Code.
20. The defendant be ordered to supply buccal swab samples, prints, blood specimens, and/or other biological samples pursuant to Section 296 of the Penal Code.

In addition to the above orders of probation, the Court hereby orders the following fees, which are not conditions of probation, however, are separately due to the Department of Revenue during the period of probation. The failure to pay such fees will result in civil collection and potential loss of the California Driver's License.

21. A Court Security Fee of \$120.00 be imposed pursuant to Section 1465.8 of the Penal Code.
22. A Criminal Conviction Assessment of \$90.00 be imposed pursuant to Section 70373 of the Government Code.
23. A \$129.75 Criminal Justice Administration fee to the city of Stanford be imposed pursuant to Government Code 29550, 29550.1 and 29550.2.
24. A Presentence Investigation Fee not to exceed \$450.00 be imposed pursuant to Section 1203.1b of the Penal Code.
25. A Probation Supervision Fee not to exceed \$110.00 per month be imposed pursuant to Section 1203.1b of the Penal Code.

June 2, 2016

(B1576943)

1. Probation be denied.
2. The defendant is ordered to report to the Department of Revenue within 30 days for the completion of a payment plan for fines and fees.
3. A County Jail sentence be imposed. The defendant be granted credits.
4. A Restitution Fine of between \$150 and \$1,000 and a 10% Administrative Fee be imposed pursuant to Section 1202.4 of the Penal Code.
5. A Court Security Fee of \$40.00 be imposed pursuant to Section 1465.8 of the Penal Code.

(continued)

In the Case of BROCK ALLEN TURNER
Docket #: B1577162


June 2, 2016

6. A Criminal Conviction Assessment Fee of \$30.00 be imposed pursuant to Section 70373 of the Government Code.

NOTE: Attorney fees if appropriate.

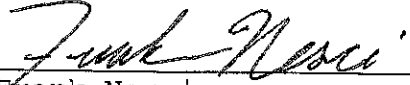
Respectfully submitted,

Laura Garnette
Chief Probation Officer



Monica Lassette
Deputy Probation Officer
650-324-6506

ML/ml
Attachments

Reviewed by:


Frank Nesci
Supervising Probation Officer
650-324-6515

The above report has been read and considered by the Court.


AARON M. PERSKY
Judge of the Superior Court
Santa Clara County, California

The day of January 17th, 2015, started out like most of my days at school were spent, by getting up and going to swim practice. Having spent the past four months on campus living around my friends who were essentially all on the swim team, I had plans to spend time with them later that day. Coming from a small town in Ohio, I had never really experienced celebrating or partying that involved alcohol. However, when I came to school in California, it had become what I expected when spending a Saturday with friends. I began to champion the idea of relieving the stress of school and swimming by consuming alcohol on weekends with people. On one instance of a Saturday of drinking, I was walking to one of the home football games with my recently found friends on the swim team. I thought things were going great, I was having a beer with them while walking to the game and experiencing what were supposedly 'the best years of my life'. I thought it was cool to be able to have a beer with friends while walking to a football game. However, the day ended by having been charged with a minor in possession for drinking alcohol. This should of opened myself to the dangers of drinking. I regrettably brushed off the incident as a mistake, but not a mistake that should change my behavior with drinking and being around the environment that enables it. Having spent most of my time around people that consumed alcohol daily, I thought it was fundamental to being in college and living like a college student. Even though I had been charged with a crime, it didn't deter me from still drinking because I carelessly thought that it was at the core essentials of being a college student and I shouldn't let one incident change my idea of what being in college meant. During this discovery of what I thought was a college lifestyle, I also had the opportunity to witness on multiple occasions people being intimate at parties that involved alcohol. I remember attending social gatherings with the swim team where these things were not only accepted but almost

encouraged for the freshman to experience. Over the course of a couple months at school, I grew more accepting of these characteristics and began to think of it as normal behavior for one to meet people of the opposite sex at parties that involved drinking. The swim team set no limits on partying or drinking and I saw the guys take full advantage of these circumstances, while I was shown to do the same. I witnessed countless times the guys that I looked up to go to parties, meet girls, and take the girl that they had just met back with them. The guys that I thought highly of would dance with girls while being intoxicated and encouraged me to participate in the party like they were. I was an inexperienced drinker and party-goer, so I just accepted these things that they showed me as normal. Living more than two thousand miles away from home, I looked to the guys on my swim team as family and tried to replicate their values in how they approached college life.

That's why on January 17th, I was excited to attend a party that my friend, who was a freshman on the team at the time, was hosting at his dorm room. If I could go back and change what unfolded on the night of January 17th, I would do it in a heartbeat because I never meant to hurt anyone. I arrived at that party with two other friends of mine that were also swimmers. Once I was there, I began consuming alcohol in the form of beer while socializing with the people at the party. I had approximately five beers while I was in his room. I eventually drank two swigs of Fireball whiskey in addition to the beer that I had already drank. I felt comfortable and safe knowing that I was just one of many members on the swim team that were there. It felt as though my behavior with consuming alcohol was completely ordinary and what was accepted within my newfound family. Eventually, the party at my freshman classmate's dorm got broken up by the RA's around eleven o'clock due to the noise restrictions set by them. At this time I was with my

friend, Tom Kremer, and about 8 other people. The people who weren't freshman in the group were looking for other parties to venture to. In my short time spent at school, I had become familiar with the fact that people would usually try and head to fraternity parties after being at a more smaller party as the night got later. The night of January 17th was no exception to this fact. As I was travelling with this small group that originated from my friend's dorm party he had just held, someone verbalized that the fraternity Kappa Alpha was holding a party that we could attend. I didn't hold an opinion one way or the other of where the group's final destination should be. Over the course of a couple minutes, the majority of the people in the group decided to walk to the party at Kappa Alpha and I followed with them. I arrived at the frat party through the back entrance of the house. As I passed through the patio doors into the basement area of the house, I spotted my captain of the swim team playing a drinking game. I started talking with him while he was playing the game alongside another senior on the swim team. I was just hanging out at the party in the basement area, enjoying my time at the party with the guys I looked up to. Someone then decided to turn the lights off downstairs, which signaled for people to stop playing the drinking games and start dancing on top of the tables that they were being played upon. Hanging around my captain once this happened, he encouraged me to start having more fun. So taking his advice, I got a top one of the tables and began dancing. Eventually, myself and another girl that was dancing on the same table began dancing together. We grinded together, which means that I was behind her and both our hips were touching in a side to side motion in accordance with the beat of the song. After a couple songs, I get down and go outside to cool off and see what was happening on the patio area of the party. As I walk outside, I find Tom Kremer, the friend who I walked to the party with, along with another one of my swim team

friends talking. I go up to them and begin talking with them. After a period of time of doing this, Tom finds a case of beer on the ground which he pointed out to me. Tom then hands me a beer and I start to drink it, while him and Jeff, the other friend who was with us, prepare to shotgun their beer. Before they do this, two girls are hanging around us and Tom asks them if they want any of the beer that they're about to shotgun. They both accept the beer and join in with the three of us. Tom, Jeff and the two girls all shotgun their beer or begin drinking it, while I sip on mine because I wasn't planning on shotgunning the beer. After a period of time, I eventually find myself talking with one of the girls that Tom handed beer to and Tom. We were basically introducing ourselves, explaining that we went to school at the campus and that we were both on the swim team. She was explaining how she went to Cal Poly, and then that quipped Tom into talking about how he had a sibling who went there as well. I thought me and her were enjoying each other's company, when she got up close to me and said that she was astonished that I looked exactly like one of her friends at the school that she went to. I took this as a sign that she was flirting with me and after a period of more socializing, I find myself kissing her. We kissed for less than five seconds or so, until both our teeth hit each others' and we both pull away. I remember that we both laughed about it that our teeth had hit and it was kind of awkward that I began to blush. She goes along with her friends somewhere and I head back inside the party to see if I could find anyone that I knew to hangout with. After a period of time of just hanging out inside the party and being on my phone, I see the other girl that was on the patio when Tom and I were talking and drinking beer. I go up to her and tell her that I liked her dancing. We started talking together since I thought we had hung out for some amount of time before. I asked her if she wanted to dance, so we began to dance together and eventually started kissing each other. I

bring up the idea of her coming back to my dorm room and she agrees to accompany me back to there. We begin walking back to my room towards the path that would eventually lead up to my house. During this time, we walk down a slope in the direction towards the path that we were heading. The next thing I realize is that we were both on the ground laying next to each other because it seemed as though she lost her footing heading down the slope and I went down with her. We started laughing about it and I was just thinking of how much of a klutz I could be. I ask her if she was alright and she tells me that she thought she was. After this happened, we started kissing each other again on the ground on which we fell. When this started to happen, the thought of making it back to my dorm left my head. I thought things were going fine with [REDACTED] and that I just existed in a reality where nothing can go wrong or nobody could think of what I was doing as wrong. Never did I question the fact of where [REDACTED] and I were and where we should have been. I naively assumed that it was accepted to be intimate with someone in a place that wasn't my room. Negating all these factors, I bring up the thought of sexual interaction with her. I idiotically rationalized that since we had been making out where each of us fell to the ground, that it would be a good idea to take things a step further since we were just in the heat of the moment at that location. I pull away from kissing her and whisper in her ear if she wanted me to finger her. She responds to me and acknowledges what I said with saying, "Yeah.". Having heard her response, I decide to take her underwear off thinking that since it was established that I would finger her, the only way of accomplishing this was to pull down her underwear. After doing so, I began to kiss her again and finger her until I thought she was satisfied with the sexual interaction that had taken place based on her moaning and the way in which she held onto me with her arms on my back. While this was occurring, I asked her if she was enjoying what I was

doing, to which she gave me a positive response. I stopped the fingering and began to move my hips against the upward movement of her hips, while I kissed her neck and ear mostly. At no time did it ever occur to me, or did it ever seem that [REDACTED] was too drunk to know what we were doing. I would not have done anything against anyone's will.

After a period of time of continuing these movements in coordination with her, the beer and alcohol that I consumed began to unsettle my stomach. I began to experience nausea and everything started to spin in my field of vision. I announced to [REDACTED] that I thought I was about to throw up because of the way my stomach was feeling to which she responds 'oh okay,' seemingly surprised by the fact that I felt that way. I proceed to get up from laying on the ground with her to all fours at first since my balance was still not easily being maintained. Eventually I get my feet underneath me and start walking down the slope to find an appropriate place to throw up. At this moment I realize that there is someone trying to get my attention that is quickly headed in my direction. I start walking away from the slope in which [REDACTED] and I just were to continue to seek out a location in which to throw up. As I proceeded to walk, the person that was trying to get my attention approached me even closer. During this time, he was speaking in some foreign language with someone else. All I could make out of what he was saying to me was something along the lines of 'hey' or 'what the fuck'. Before I could even think of a response as to what to say to him to try and appease whatever his concerns with me were, I find my arms being grabbed by him. This caused me to think that he was trying to fight with me or mess with me in some way and I had no idea why. Fear went through my body, which caused me to resist him in anyway I could. I broke his physical connection to my body and tried running away from him, soon finding myself on the ground with him holding my arms down and preventing me

from ever getting up. I screamed out for help ten or fifteen times before I realized my shouting would be helpless since no one was coming to help me. I repeatedly tried to get him to talk about whatever his strife was, but he refused to do so. During my time of being restrained on the ground, I heard someone was going to call the police. I thought that it was good that the police were coming because I thought they would help me. Once the police arrived, I finally stood up until I heard that I would have to get back on the ground and put my hands behind my back. I was shocked to realize that it was me who they were arresting. I swear I never would have done any of this if [REDACTED] wasn't willing. I haven't done that at any time in my life and wouldn't do it now.

I get taken back to the police station and put in a room with a wooden bench. I was told I couldn't use the bathroom or have anything to eat or drink and should just start sleeping on the bench. None of the police were telling me what was happening to me until someone came in after they had taken my clothes and swabbed my body for some reason. He told me that I was being charged with rape and I immediately responded with complete and utter shock. He then said to me that he agreed that it was a hard thing to wake up to and I just thought are you kidding me? Then he told me that someone was going to come in and interview me. Eventually that person came and all I could think during that interview was that I never raped someone and would never even think about doing that. I wish I would have forced myself at the time to remember every single minute detail that happened that night and express that. I wish I would have said that I know I didn't run from [REDACTED], but did run from the guy that I was fearful of even if it was just a fight or flight reaction. I didn't think what I didn't say would be such a huge deal because I know I never raped anybody that night and that's all that would matter. I thought

that all I had to communicate was the truth- that in no way was I trying to rape anyone, in no way was I trying to harm anyone, and in no way was I trying to take advantage of anyone. However, at the end of the interview, the officer told me that they had probable cause to take me to jail and that's where I would be going. I was in complete shock and disbelief during the entire process. I could only think of my family and getting in contact with them.

The night of January 17th changed my life and the lives of everyone involved forever. I can never go back to being the person I was before that day. I am no longer a swimmer, a student, a resident of California, or the product of the work that I put in to accomplish the goals that I set out in the first nineteen years of my life. Not only have I altered my life, but I've also changed ██████ and her family's life. I am the sole proprietor of what happened on the night that these people's lives were changed forever. I would give anything to change what happened that night. I can never forgive myself for imposing trauma and pain on ██████. It debilitates me to think that my actions have caused her emotional and physical stress that is completely unwarranted and unfair. The thought of this is in my head every second of everyday since this event has occurred. These ideas never leave my mind. During the day, I shake uncontrollably from the amount I torment myself by thinking about what has happened. I wish I had the ability to go back in time and never pick up a drink that night, let alone interact with ██████. I can barely hold a conversation with someone without having my mind drift into thinking these thoughts. They torture me. I go to sleep every night having been crippled by these thoughts to the point of exhaustion. I wake up having dreamt of these horrific events that I have caused. I am completely consumed by my poor judgement and ill thought actions. There isn't a second that has gone by where I haven't regretted the course of events I took on January 17th/18th. My shell and core of who I am as a person is forever broken from this. I am a changed person. At this point in my life, I never want to have a drop of alcohol again. I never want to attend a social gathering that involves alcohol or any situation where people make decisions based on the substances they have consumed. I never want to experience being in a position where it will have a negative impact on my life or someone else's ever again. I've lost two jobs solely based on the

reporting of my case. I wish I never was good at swimming or had the opportunity to attend Stanford, so maybe the newspapers wouldn't want to write stories about me.

All I can do from these events moving forward is by proving to everyone who I really am as a person. I know that if I were to be placed on probation, I would be able to be a benefit to society for the rest of my life. I want to earn a college degree in any capacity that I am capable to do so. And in accomplishing this task, I can make the people around me and society better through the example I will set. I've been a goal oriented person since my start as a swimmer. I want to take what I can from who I was before this situation happened and use it to the best of my abilities moving forward. I know I can show people who were like me the dangers of assuming what college life can be like without thinking about the consequences one would potentially have to make if one were to make the same decisions that I made. I want to show that people's lives can be destroyed by drinking and making poor decisions while doing so. One needs to recognize the influence that peer pressure and the attitude of having to fit in can have on someone. One decision has the potential to change your entire life. I know I can impact and change people's attitudes towards the culture surrounded by binge drinking and sexual promiscuity that protrudes through what people think is at the core of being a college student. I want to demolish the assumption that drinking and partying are what make up a college lifestyle. I made a mistake, I drank too much, and my decisions hurt someone. But I never ever meant to intentionally hurt [REDACTED]. My poor decision making and excessive drinking hurt someone that night and I wish I could just take it all back.

If I were to be placed on probation, I can positively say, without a single shred of doubt in my mind, that I would never have any problem with law enforcement. Before this happened, I

never had any trouble with law enforcement and I plan on maintaining that. I've been shattered by the party culture and risk taking behavior that I briefly experienced in my four months at school. I've lost my chance to swim in the Olympics. I've lost my ability to obtain a Stanford degree. I've lost employment opportunities, my reputation and most of all, my life. These things force me to never want to put myself in a position where I have to sacrifice everything. I would make it my life's mission to show everyone that I can contribute and be a positive influence on society from these events that have transpired. I will never put myself through an event where it will give someone the ability to question whether I really can be a betterment to society. I want no one, male or female, to have to experience the destructive consequences of making decisions while under the influence of alcohol. I want to be a voice of reason in a time where people's attitudes and preconceived notions about partying and drinking have already been established. I want to let young people know, as I did not, that things can go from fun to ruined in just one evening.

People v. Brock Allen Turner

Case # B1577162

Letters

April 28, 2016

Dear Judge Persky,

As I know many others have, I am writing to you concerning the upcoming sentencing of nineteen-year old Brock Turner from Dayton, Ohio. I have known Brock's parents, Dan and Carleen Turner, and their three children Brent, Caroline, and Brock, for the past fifteen years through Holy Angels parish organizations, through our childrens' elementary and high school activities, and as neighbors.

I am a retired federal prosecutor, mom of five and foster mom to many. Since my retirement I have been involved in programs which assist felons in the very difficult task of reintegration. As I know you are aware, the collateral consequences of a conviction are staggering. The immediate consequences of Brock's convictions go far beyond expulsion from Stanford or loss of a swimming scholarship. While shameful to a nineteen-year old freshman, those consequences pale when measured against the requirement of continued registration as a sex offender, or the very limited job opportunities that will be available to Brock.

It is evident, especially within the last few years, that sexual misconduct is a growing concern on college campuses; it is a very real problem. This rising concern has encouraged many college campuses to put sexual misconduct at the forefront of the discussion table. More and more universities are implementing mandatory workshops aimed at educating incoming freshman on the importance of consensual sex, effective communication between partners, healthy relationships, and safe drinking practices on college campuses. These educational programs for incoming students are effective; a comprehensive approach to educating students on the dangers of excessive alcohol consumption and sexual misconduct is the most effective way to combat these issues that are all too relevant on college campuses.

If the Court saw fit, perhaps Brock could better serve his future development and that of other young men, in counselling them, speaking to them, warning them about the devastating consequences of a single decision. Brock could have the unique opportunity to mentor students on this complex issue that young people from all over the country will undoubtedly face in their lifetime.

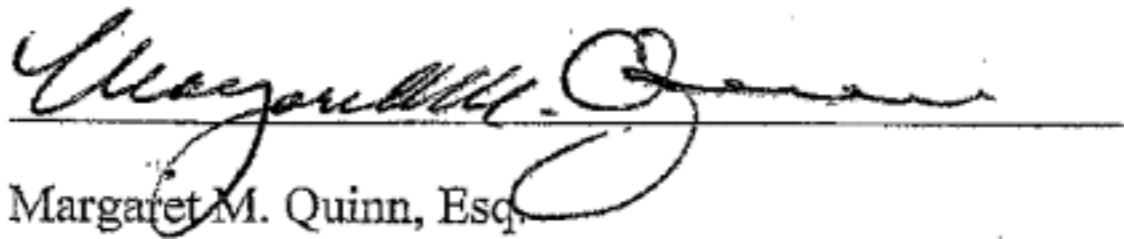
I met with Brock and his family last week. They are devastated. Brock himself is despondent; he is broken. There is no doubt Brock made a mistake that night- he made a mistake in drinking excessively to the point where he could not fully appreciate that his female acquaintance was so intoxicated. I know Brock did not go to that party intending to hurt, or entice, or overpower anyone. That is not his nature. It never has been. This unfortunate series of events has left Brock in despair. Rather than strip him of any chance to rectify this situation, I hope his punishment enables him to educate young people on the importance of safe alcohol consumption, and effective communication between two consenting individuals.

I believe a prison term will serve no useful purpose in Brock's case. He is forever changed by the events of that night. Judge please consider other options to prison- options which will serve the purpose for which a sentence is imposed, and options which will leave a future for this very scared young man. Probation could include heavy reporting requirements, counselling, community service in multiple ways, including speaking out about the dangers of excessive alcohol consumption, college partying, and the "hook-up" culture on college campuses throughout the United States.

I ask the Court to consider Brock's future, or lack thereof, when implementing his sentence. I wholeheartedly believe that good can come from this unfortunate chain of events by salvaging Brock's future and allowing him to mentor other young people in promoting a culture of responsible drinking practices, effective communication, and overall safety on college campuses.

Thank you Judge, for your consideration.

Sincerely,


Margaret M. Quinn, Esq.





April 22, 2016

Honorable Judge Aaron Persky

Your Honor,

I am writing in regard to Brock Turner. I am a physician-engineer, trained in Family Practice Medicine, Aerospace Medicine, and Aerospace Engineering and I am currently Board certified in Aerospace Medicine. I have practiced in the Family Practice clinic, the Emergency Department, the Urgent Care, the Occupational Medicine clinic, and the Flight Medicine clinic. I am currently the Program Director for the Wright State University, Division of Aerospace Medicine, Residency program. I have, as you may understand, seen the best and worst of what people can do, and with every patient I have cared for, had to understand their personalities and motivations. I would like to share with you my observations and impression of Brock.

I have superficially known of Brock for several years, as my wife was his swim coach during his high school senior year and would sometimes talk about her swimmers. It was this year that I first met Brock and came to know him and his personality in much more depth. Starting in January, three days a week I trained with Brock, swimming for about an hour and a half each day. During this time, of course we talked and occasionally would discuss his then upcoming trial.

As a clinician, these interactions were of greater time and depth than what I would typically experience when seeing a patient in clinic, affording me a substantial opportunity to observe his mannerisms, to get to know his personality, and to gain an understanding of him. What I observed was a quiet, mild mannered young man who for all intent and purposes was psychologically sound, who had a well-adjusted personality, and who harbored no ill will. As you may have learned, Brock had gone to college with the intent of studying Biomedical Engineering. From my experience in Engineering, his personality was quite consistent with the typical engineering student, respectful, unobtrusive, unassuming, and hopeful to learn and grow.

I also found that I shared something in common with Brock: I as well was an elite athlete who had aspirations to participate in the Olympics. I had trained in rowing and made an unsuccessful bid for the 1996 Olympics. I understand what he has gone through with training and his dedication and what type of personality it takes to strive to achieve an ever higher goal.

What was quite obvious during our interactions was that he was scared of his upcoming trial and that he demonstrated regret, remorse, and shame, not only for himself, but for his family and most importantly the woman involved in the incident. These are characteristics I typically have not observed in patients who required medical attention after committing a crime or who had subversive motivations for their medical visit. Typically, those individuals were obstructionists, belligerent, and/or conceited and demonstrated anger, spite, and lack of caring toward the people around them, similar to antisocial personality disorder. Quite frankly, over time it puzzled me as to how Brock had gotten into this situation as his character was not consistent with the typical personality my experience had taught me was a perpetrator of such a crime. Based on my education and experiences, his personality did not appear to reflect the charges brought against him.

I am also aware that alcohol consumption was involved during the incident. From scientific evidence I have studied during my education and from my experience, alcohol is a depressant and a chemical that can release inhibition and magnify both positive and negative personality traits, something I saw too often and too negatively

in the Emergency Department. It is not, however a substance that dramatically changes someone's intrinsic personality traits, suddenly altering someone from being mild mannered to criminalistics. I am afraid this is how it is sometimes portrayed and that Brock may have been depicted in a similar fashion. Needless to say, in no way or form did I observe intrinsic criminalistics traits, mal-adaptive behaviors, or ill-willed characteristics in Brock that would have been magnified by alcohol consumption.

What I have concluded from my time with Brock is: that he is a mild mannered, respectful, well-adjusted young man who wishes no harm; that he is a person who has worked his whole life toward a goal of academic and swimming excellence; that with the verdict rendered, he will already be paying the painful price of having a lifelong dream denied by being banned from USA swimming and not participating in the Olympics; that he will live the rest of his life with a public label that will follow him wherever he goes and may dictate where he can live and work; and that for the rest of his life he will live with the fact that he unintentionally hurt someone.

My greatest concern is that incarceration would damage a young man who I am quite certain is fragile, who, in my professional opinion, had and currently has no intent of harming anyone, and would result in a person who very likely ends up malignantly hardened toward society. In the overall societal picture, there are those who choose only to take from society and those who choose to give of themselves to help make society better. From my perspective Brock has the foundation and personality to be a contributor to making society better. I can only imagine that incarceration would be quite destructive for a person who has such potential to provide a positive contribution.

Although my short letter cannot do justice in describing Brock's personality, I would hope that my observations and experiences have provided additional insight into your understanding of Brock's personality. Most certainly, I would ask you to consider as much leniency as possible when rendering a sentence. Ultimately this is a tragedy for all parties involved and I would hope that you can choose a pathway for Brock that will be both helpful and educational to society and constructive for Brock.

I very much appreciate your time and thank you for your consideration of my observations.

Very Respectfully,



Dean Olson, MD, MS, MS
Program Director
Division of Aerospace Medicine
3640 Col. Glenn Hwy., Dayton OH 45435-0001

