

Legal Battle Continues for UNC Police Officer

BY THANASSIS CAMBANIS
SENIOR WRITER

University Police officer Keith Edwards will continue her seven-year-long discrimination suit against the University in a court hearing June 6.

And because of her failing health, Edwards said the hearing came at a crucial point in her seemingly endless legal crusade. "I want my promotion and back pay," Edwards said. "I just want to be treated fairly."

Edwards will appear before Orange County Superior Court Judge Fred Battle with her attorney, Al McSurely.

Battle will decide whether to support a

N.C. Court of Appeals decision that upheld a previous decision to grant Edwards damages.

If Judge Battle rules in favor of Edwards, she will be awarded the \$116,000 in compensatory and punitive damages she won last year from a jury in Battle's court.

However, if Battle rules against her, Edwards said she could appeal the decision to the N.C. Court of Appeals so the case could be retried. "There have been enough judges and juries that have ruled it was discrimination," Edwards said. "As this case goes on, we get more and more evidence in my favor."

Racial discrimination in the police department has prevented Edwards from be-

ing promoted during her 20-year career as a University Police officer, she says.

"Had they given me my promotion (in 1987), it would have been less than \$600 a year and a title," Edwards said.

Edwards initially sued the University in 1987 along with 15 other University Police officers, both black and white, who claimed they were unfairly considered during a departmental reorganization.

All the other officers involved in the original suit have either settled with the University, received promotions or dropped their litigation.

"The only way I could be made whole in life would be to get the same thing as the white officers (involved in the original griev-

ance) — my promotion, my back pay."

McSurely said that Edwards was probably the most senior member of the University police force never to have been promoted.

"May 4, 1974, Keith started at the police department," McSurely said. "She's still the lowest rank there is — police officer 1."

The state Supreme Court also has agreed to consider a discretionary ruling within the next 30 days. The ruling concerns a challenge the University made after Battle's court granted damages to Edwards.

The University contends that the wording Battle used when instructing the jury altered the verdict.

SIMPSON

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The jury selection process was often emotional. One potential juror told Williams that he could not remain impartial based on what he had already read in the newspapers.

"I firmly believe in capital punishment," the man told Battle. "I don't think I could stay impartial."

Several potential jurors commented that they could not limit their decisions to evidence presented in court, admitting they already had formed opinions.

"If he was let to go free after he did shoot her, then I would feel disturbed about it," a male potential juror said. "If he was just let go after all that happened, I don't think it would be right."

Williams asked Battle Tuesday if he could question potential jurors individually in order to find out the extent of their opinions about the case.

On both days, Battle and attorneys for both sides reiterated several premises about

the case in order to eliminate people who might have a bias about the case. By law, both lawyers are given 14 peremptory challenges, which means that a lawyer can get rid of a potential juror without a reason.

Williams and Robert Trenkle, Simpson's other attorney, took full advantage of this fact, scrutinizing the potential jurors as a group and then individually. Fox's interrogation was shorter, however. In the end, Simpson's attorneys dismissed 10 potential jurors while Fox dismissed three. Eight were eliminated by the court.

Aside from questioning potential jurors on their background and opinions, Williams tried to establish if he would keep them by questioning them on matters of law.

"Do you all believe that the burden of proof rests with the prosecution and not Anthony?" Williams and Trenkle asked.

"Do you all believe the burden of proof should be proven beyond a reasonable doubt? And if the prosecution fails to get a burden of proof that accuses Anthony Simpson beyond a reasonable doubt, would

you agree to return a not guilty verdict on the charge of first-degree murder?" Williams asked.

During the selection, Williams, Trenkle and Battle reiterated that Simpson is innocent until Fox proves him guilty.

All of the potential jurors told Williams and Trenkle they had heard about the story through the media. Those who had read between five and 10 articles about the case were dismissed by the defense attorneys.

Other than questions about their opinions, Williams and Trenkle asked potential jurors where they lived; where they had lived previously; if they had discussed the case; if they had learned about the case through the media; and how much they had read or seen about the case.

Fox mainly asked questions about the potential jurors' backgrounds and where they were from.

On Tuesday, Williams attempted to remove the press from the courtroom, but Battle denied the motion. "Cameras have become such a common thing that jurors don't pay attention to them," Battle said.

POLICE

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Walton said he expected Elfland to make a ruling by Monday, but he expected her to rule against him. He will appeal a negative ruling, he said. Walton said his qualifications, which include a bachelor's degree and three years as a University security guard, should have won him the commander position automatically.

George Williams, a black security guard who was promoted to security guard supervisor, also has filed a grievance. Williams wants the police chief to assure his colleagues that he received his promotion because he was best-qualified for the job.

Al McSurely, the attorney advising the two men during the grievance process, said state law required internal candidates of equal quality to be given priority over external candidates. All the in-house candidates were black, and only one of them received a promotion, McSurely said. "If you hire external candidates every time a promotion opens up, it seems unfair."

UNC Doctor Sentenced To Service, Counseling

BY KELLY RYAN
EDITOR

A former UNC Hospitals pediatrics resident was found guilty last week of sexual assault against a patient who was recovering from a hysterectomy.

Jose Genero Diaz of Chapel Hill, who pleaded no contest to a single count of misdemeanor assault, was sentenced May 12 to two years probation and 100 hours of community service. An Orange County District Court judge also ordered Diaz to enroll in the state's Physicians' Health Assistance Program.

The General Assembly set up the program several years ago to help doctors with professional problems, such as alcohol abuse or sexual misconduct with patients.

The judge handed down a suspended sentence, which means Diaz's 90-day jail term was deferred for three years. If Diaz complies with the judge's orders, he will not have to serve the term.

Diaz was charged with first-degree sexual assault Feb. 10 after Stephanie Brown of Asheboro told public safety officers he had fondled her breasts and tried to kiss her.

Brown was in a fourth-floor room when a man came in and identified himself as one of her doctors. She struggled away from the suspect after he started fondling her breasts when he claimed to be checking her breathing. When a nurse entered the room, the suspect fled and later was identified as Diaz, a second-year resident. He was fired March 1.

"(The settlement) was, for our purposes, a means of bringing the criminal aspects to

an end," said Diaz's attorney, Syd Alexander of Chapel Hill. "This is not an admission of guilt."

Brown's lawyer said Tuesday that charges could be filed against Diaz any time within one year from the date of the assault. She said she could not say whether UNC Hospitals also would be named as a defendant.

"We believe Dr. Diaz has infringed on her rights, and he should have to pay compensation for what he did," said Janet Ward Black of Greensboro.

During the court proceedings, Alexander argued against putting Diaz on supervised probation, which is usually reserved for defendants unlikely to follow court orders.

"In my view, this is not a case where the individual involved needs any supervision," he said. "This is not a man who's ever been in trouble before."

Alexander said Diaz had been in touch with the physicians' program, but he could not tell how long it would be before Diaz could try to reinstate his medical license. Diaz could not work toward another license until the criminal case was resolved.

"[Diaz] can live with a conviction if he can get on with his life," he said.

Diaz' community service program has not yet been decided, but Alexander had suggested the doctor use his Spanish language and medical skills to serve the county.

Brown praised the case's outcome but said the sentence did not compensate for all of the damage done.

"We were pleased [Diaz] got supervised probation and that the community gets some payment in the way of service."

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