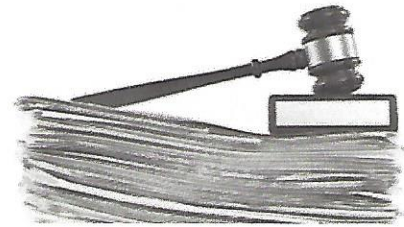


## Md. judge says no defamation in college rape case

By: Anamika Roy Daily Record Legal Affairs Writer November 28, 2017

A Baltimore County judge has tossed a defamation lawsuit against a college student brought by a classmate expelled from their Massachusetts college after she accused him of rape, with the judge ruling he could not determine which side was telling the truth.

The case, described as "unusual" by attorneys on both sides, stems from May 2014, when the two students at Bard College at Simon's Rock ended a three-month relationship. Two weeks later, the woman, identified in court documents as Jane Doe, alleged Andrew Mobus raped her in the first month of their relationship. Doe, a Towson native, later discussed the incident with two mutual friends through text and online messages, shared stories about rape and "trigger warnings" on social media and reported the incident to the school, according to Mobus' lawsuit.



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Mobus was expelled by the school after a hearing in August 2014 and did not appeal the decision, according to court documents. He filed his defamation lawsuit in Baltimore County Circuit Court in May 2016, seeking at least \$500,000 in compensatory damages and \$1 million in punitive damages.

Mobus argued Doe's statements to school administrators, considered privileged in the quasi-judicial proceeding at school, could not be considered privileged as part of her defense, according to court documents.

But Judge C. Carey Deeley Jr. was not swayed during the bench trial last month.

"(E)ven if I adopt the plaintiff's view that the conditional privilege ought not to apply in this case or it should be negated upon a showing of malice, I'm unable to conclude whether or not what the defendant says was or was not true then or now," Deeley said, according to a transcription of the proceedings.

Deeley added his "mind is in a state of even balance."

Steven K. Fedder, Doe's attorney, said Tuesday he was not surprised by the judge's decision.

"We expected the judge to rule that there was an unconditional privilege to make the complaint to the college (and) contact mutual friends," said Fedder, of Fedder & Janofsky LLC in Baltimore. "I frankly didn't think that they (the plaintiff) could meet their burden of proof that there was not a rape."

Robert Piliro, Mobus' New York-based attorney, said Deeley's decision was "a substantial development" in his client's case. Mobus is also suing Simon's Rock in a separate lawsuit pending in federal court in Massachusetts.

"At Simon's Rock, Jane Doe had burden of proof, so if the panel at Simon's Rock had looked at the case the way Judge Deeley did...my client would have been exonerated and never expelled," Piliro said Tuesday.

Piliro argued that Bard College's hearing was akin to "kangaroo court and wasn't worthy of a judicial proceeding," an issue that is central to the pending Massachusetts case against the college.

Fedder said it was interesting Deeley found that even if the college's implementation of Title IX procedures regarding sexual harassment, rape and assault were improper, the procedures were properly designed and Jane Doe could reasonably assume the school would use the correct procedures. Title IX bars sexual discrimination in education.

"I think they followed the Title IX procedures, but that's for another court to decide," he said.