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'I didn't want it.' Woman recalls night Bethesda CFO allegedly raped her, trial postponed

by Kevin Lewis/ABC7

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MONTGOMERY COUNTY, Md. (ABC7) — The trial for accused rapist Jason Delano has been postponed until late April after an expert witness for the defense received negative health news.

Delano, 43, of Bethesda, stands accused of raping a 31-year-old woman at her apartment in Friendship Heights. The two met during [a holiday party at the Bethesda Country Club in December 2017](#). They had been strangers before that evening.

In May 2019, Montgomery County Police charged and arrested Delano. At the time, a Montgomery County District Court judge granted the tech-company CFO a \$100,000 bond. Delano paid the full amount via check the following day and was released from jail. The married father of three was placed on electronic monitoring, and initially, only allowed to leave his \$1.6 million home for work, medical appointments, and meetings with his attorney.

Since then, Delano and his defense attorney, Kush Arora, have returned to court numerous times to ask for special bond considerations, including permission [to attend Sunday church services and to work out at a fitness center](#).

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In July, Montgomery County Circuit Court Judge David Lease granted Delano free rein within

the D.C. area between 6 a.m. and 10 p.m. daily while awaiting trial, but kept him on GPS monitoring.

HOUSE ARREST CONDITIONS LESSENER

The severity of the allegations, and subsequent publicity, led Delano's employer, Reston-based Aderas, to terminate him. To keep his family of five financially afloat, Delano quickly formed his own company and has since compiled a new portfolio of clients. No easy feat for someone on partial house arrest and facing decades in prison.

"He was terminated from his original employer once the case sort of hit the news back in the early summer months of this year and was required to go out and essentially start his own business with the same skill set that he had," Arora stated in court. "[Work] was originally requiring him to go into the Washington, D.C. area and into Tyson's Corner, which the court had allowed, but is keeping him from having opportunities to explore in other places. There are opportunities in New York, for example, and other parts of the state of Virginia, on the West Coast that would require travel, would require meetings that he is not able to participate in."

In fact, in August, Delano booked a flight to San Francisco for a four-day professional conference but did not obtain advance approval from Judge Lease.

"My understanding is this conference is a very important conference that he would like to attend," Arora remarked, hoping to iron things out. "He had purchased a one-way, direct ticket there when he called me, and sort of said, 'This is what's going on.'"

Despite the Montgomery County State's Attorney's office objecting "to any further bond modifications," Judge Lease made a one-time exception and approved the California trip.

Then on October 25, Arora returned to court, in part, to ask Judge Lease to extend his client's nighttime curfew from 10 p.m. to midnight.

"The current status of the curfew makes it very difficult for him to attend networking events, which are an essential part of the kind of work that he does," Arora stated. "They sometimes don't finish up until 11, 12 o'clock at night, which makes it difficult for him to comply with pretrial's requirements, while still participating in those networking events."

Delano dovetailed off of Arora, detailing the logistical challenges he faces on an all-too-regular basis.

"It could be a dinner at 8 p.m., and that dinner is in D.C., and it takes 45 minutes to get back from D.C. sometimes. So, for me staying an hour versus two. Again, I'm not asking for late-night hours... And then on the other side, I do early rise and go work out, so I'd rather it be 5 a.m. rather than 6 a.m., if possible."

Arora also asked Judge Lease to cancel Delano's GPS monitoring, plus grant blanket authorization for him to visit relatives in Florida, New York, and Tennessee.

"He has not been able to travel to see them," Arora noted. "Recently, he had a death in the family. There have been services that he was not able to attend, although there is a memorial service that will be happening in the late part of November, which of course, he would like to go to."

Prosecutors objected to the removal of GPS monitoring and cited a concern for Delano consuming alcohol at evening work functions, particularly in light of the allegations against him.

"This was a stranger-on-stranger offense, and, there was an incredible amount of alcohol consumed," Montgomery County Assistant State's Attorney Mary Herdman stated. "I don't think that a GPS is terribly restrictive to a defendant who has been given the privilege to be out in the community pending the charges he is facing for trial."

Judge Lease amended Delano's morning curfew from 6 a.m. to 5 a.m. He kept Delano's evening curfew at 10 p.m. but included an 11 p.m. caveat on an as-needed basis.

"I need to know what these events are, what they entail, and why they are important. My thought is, the later folks stay out at night, the more likely there are to be problems... I always tell the young folks; nothing good happens after two o'clock in the morning."

Judge Lease approved out-of-town business and personal travel for Delano, so long as he obtains approval from Montgomery County Pre-Trial Services. Records obtained by ABC7 show a Southwest Airlines itinerary from BWI to Tampa, Florida, around the Thanksgiving holiday, and a second trip to New York City and Albany, New York, for eight days around Christmas.

Judge Lease, however, did not remove GPS monitoring.

"I'm not inclined to not have him on GPS... From a public safety standpoint, it's one of the things that we use. It's one of the things that gives me more leeway in order to not incarcerate folks, frankly."

RETURNING TO THE SCENE OF THE ALLEGED CRIME

In addition to a bevy of bond and house arrest considerations, Arora asked Judge Lease for permission to visit the victim's apartment alongside his investigator and Delano. According to Arora, authorities failed to take pictures or record video of the alleged crime scene, leaving many black holes.

"The evidence is pretty clear that there was a lot of alcohol that was consumed by the parties that night," Arora said in court. "The delay in the charges here made everybody's recollection a little bit hazy as to what happened. It's frankly instrumental to us in terms of preparation, in this case, to know what the layout is with the assistance of our client."

"You're not talking about going into her apartment?" Judge Lease responded, seemingly surprised by the defense's ask.

"Being inside of her apartment unit is something that I respectfully understand why she would not want Mr. Delano to do, but I think that it's appropriate... to kind of get our bearings in there to understand exactly where everybody was, what their positioning was, things of that nature. It's very important to our defense that we know the layout of that unit... kind of distances between locations, things of that nature because a lot of what she describes in her complaint has to do with the interactions that took place in the apartment."

Prosecutors called Arora's idea "incredibly invasive to a victim of a rape" and explained that the victim remains "very afraid" of Delano. Instead, they suggested police return to the apartment, take a full array of photographs and then supply those images to the defense team.

"Your honor, I am strongly opposed," Assistant State's Attorney Herdman remarked. "I think that is absolutely untoward for her to have to deal with her offender going back into her apartment, and I think that there is absolutely no reason for that... It further victimizes her."

After mulling over the unique request, Judge Lease granted Arora and Delano access to the victim's apartment complex, so long as members of the state's attorney's office or police department were present to supervise the walkthrough.

"There seems to be some issue about how much time the defendant was on the premises. What route he took to or from. Whether or not there was contact with third parties in the building itself... the front desk folks. Whether or not he was let out of the garage area," Judge Lease opined. "There really is an uneven playing field with respect to the ability to review and understand... The physical plan of that apartment is material and relevant to the disputed issues in this case."

At a later court hearing, Arora told Judge Lease he was happy with the outcome of the photoshoot and tour.

"We're satisfied with what we were able to obtain in that 20-minute or so period of time. We did spend another hour and a half on the premise after that, walking around and taking photographs."

THE VICTIM'S SIDE OF THE STORY

Law enforcement sources recently provided ABC7 with a 46-page written transcript of an interview two detectives conducted with the victim.

"Okay. So, I am here to report a sexual assault, which I think is a rape," the then 31-year-old woman stated. "[I] just wanted to see if I can proceed with pressing charges, and I think, bringing him to justice with what he did."

The victim explained that she arrived at the Bethesda Country Club around 6:30 p.m. on Thursday, December 7, 2017, to meet her female friend, who is a member of the private golf course. She recalled walking into the restaurant area and seeing her friend seated at a table with a few other people. The victim had not eaten since around 10:30 that morning.

"It was really fun, just having a good time," the victim told detectives. "We had some finger food, and then we had a chocolate cake, and I remember dancing a little bit."

The victim and her friend moseyed over to an adjacent room where a holiday party was

underway. Jason Delano was among the attendees. Shortly after that, three "generous" glasses of red wine caused the victim to become inebriated.

"I put my head down on the table and wasn't feeling so well. And I thought maybe I could just kind of take a nap... I remember, kind of waking up from that, sitting back up and saying, 'I think I've had too much to drink.'"

After lifting her head off the dining room table, the victim said Delano escorted her outside of the clubhouse to a stony cart path and grassy area.

"I remember apologizing for being so drunk, and I apologized for being such an inconvenience for him because, I thought you know, I should have not had so much to drink, and I didn't want him to waste his time... And he said, 'No problem.' He kept reminding me to keep my head up and to keep breathing... I just apologized, and he kept saying, 'It's no problem. Keep your head up. Keep breathing.'"

The next thing the victim knew, she was in the back seat of her friend's Cadillac Escalade. Her friend was in the driver's seat, a man was in the front passenger seat, and Delano was beside her in the back, reportedly telling her to breathe while also caressing her head.

ARRIVING AT HER APARTMENT

"I heard [my friend] say, 'It's okay, you're home.' Like, 'We've got your stuff. You're home.' And I couldn't really register that. I could understand, but I wasn't able to, like, respond back."

The victim explained Delano helped her out of the SUV, into her Friendship Heights apartment building, and ultimately into her one-bedroom unit. She vomited along the way.

"I do remember being at the corner of my bed, and I was standing up, and I know he was next to me," the victim stated. "So, I thought I was going to go to sleep. I thought he was just going to zip me on my bed, and I would just roll over, but he undressed me from the waist down, and then I blacked out."

The victim awoke an unknown number of minutes later and recalled feeling Delano penetrating her. The apartment was dark except for a light in the bathroom.

"So, I believe that he had intercourse with me; he had sex with me," she told detectives.

"Did you see him?" one of the detectives asked.

"I did... I saw him turn around towards my bedroom doorway, and then I passed out again."

According to court documents, Delano then returned to the Escalade, which was still idling downstairs. Upon entering the vehicle, the front-seat passenger told Delano he "smelled like pus--," prompting the two men to chuckle, the SUV's driver would later say to the police.

SEXUAL ASSAULT EXAM PERFORMED NEXT DAY

The victim awoke around 7:30 the following morning. It was a Friday. She recalled being naked from the waist down, her denim pants and cell phone were strewn on the floor beside her queen-size bed.

To her surprise, she did not have a hangover. A relief, no doubt, but she soon grew concerned that her car would be towed from the Bethesda County Club parking lot.

The victim called out of work and then hailed an Uber to take her to her car. That is when she began to feel pain in her genitals.

"It was really, really slight, but it was a very unusual feeling, and I thought, something is not right. It doesn't feel right. It doesn't feel normal."

The victim called a friend who urged her to go to the hospital. She first went to Sibley Memorial Hospital in Northwest D.C. Staff there directed her to Adventist Healthcare Shady Grove Medical Center in Rockville, which has staff specially trained to perform sexual assault exams.

"One of the nurses in the forensic unit, her facial reaction seemed to be one of surprise and, and she kind of gasped, 'Oh, there's a lot here.' I think that's when it hit me; maybe this is beyond what I hoped, in the sense, I was hoping there was no real penetration. I was hoping to get a, 'Nothing happened.' I think at this point, that's when it kind of hit me, maybe something did happen. I didn't want it. I didn't ask for it. I don't believe I was inviting it in any way. I know I didn't want it."

"Have you had sex before? Vaginal intercourse?" detectives questioned.

"No," the victim replied.

"Vaginal intercourse before?" detectives asked again.

"No," the victim re-confirmed.

"And it would be abnormal for you to invite men into your apartment?"

"It is pretty abnormal, yes. I dated one person several years ago... but mostly I went to him," the victim stated. "I haven't invited many people over, boys or girls actually... Maybe, one guy, that's about it in the past few years."

In an attempt to better grasp the victim's daily routine, detectives asked what her regular weeknight looks like after work.

"I would turn on the TV, watch a little bit of Netflix. Lately, it's been watching 'Friends' for a little bit, and I tend to go to bed around midnight or so, and in between that time, I may try to cook something for the next day for my lunch, which I try to bring in or kind of putter around with cleaning a few dishes."

Before concluding the recorded interview, detectives asked the victim about her drinking habits. She explained that she typically consumes alcohol one or two nights a month, and rarely if ever, has more than three drinks in one evening.

"Once I start feeling a little buzzed, then I try to stop. It's nice to keep the buzz going, but when outside, you never know what could happen, and this is something that, you know, did happen."

LEAD DETECTIVE DISMISSED DUE TO QUESTIONABLE CREDIBILITY

In December, [ABC7 first reported that Wendy Giovacchini](#), the lead detective in the Delano matter, was quietly pulled off the case in 2018. Giovacchini was subsequently placed on administrative leave amid mounting questions about her credibility. In October, Arora passionately argued for access to the 45-year-old's internal affairs file, which reportedly

consists of 11 binders filled with damning intel. Judge Lease ultimately sided with Arora.

"We were given access to two boxes with an extensive number of binders," Arora stated during a January 17, hearing where he attempted to convince the judge that the records should be admissible at trial. "[They have] gotten into some of the pitfalls that Detective Giovacchini had been facing while she was actively employed as a sex crimes investigator with the Montgomery County Police Department."

Yet, Judge Lease shared that his review of Giovacchini's "voluminous" internal affairs file left him with the conclusion that the documents, impressive as they may be, did not belong at trial.

"What I've looked at... I would consider it more negligence, and then her trying to cover her negligence through misrepresentations, potentially, to her superiors," Judge Lease stated, countering Arora's argument.

"She was terminated — or rather taken off cases — for dishonesty," Arora rebuffed. "One of the responses that she was giving to a senior detective in her department about DNA — and the updating of files — and things like that was, 'I did it.' And she did not. And then she starts to tell colleagues, 'Well, they found me out.' I think the fact that she's a documented liar within the police department is an important piece of information to know in respect to any response she gives to the court or members of the jury."

Arora went on to cite examples of Giovacchini's alleged missteps in various sexual assault cases. An internal police department audit of Giovacchini's work, for instance, uncovered information from one case mistakenly tucked away in a separate file.

"Preservation notices for cell phone records or surveillance were not done properly," Arora noted. "There were pieces of evidence — like I believe one of the cases had a skirt in a sex crime allegation — that was not collected properly."

Unswayed, Judge Lease denied Arora's motion to have Giovacchini's internal affairs files entered as evidence at trial but said he would keep all 11 binders available for the defense and prosecution to reference along the way.

Arora proceeded to lament about the prosecution firing multiple curveballs at his office in the eleventh hour. For one, in May 2019, the victim gave investigators her unwashed bed sheets

and comforter from the night of the alleged rape. However, Arora claimed he was never explicitly told that those pieces of evidence existed. Nor was he adequately informed about the victim's new ability to "visualize" what happened to her in the bedroom "from a distance." As a third example, Arora said he happened upon a note indicating that the Bethesda County Club turned over surveillance video to Giovacchini, but that he has not seen it.

"It puts me in a posture where I have to keep going back to zero with respect to this preparation... I had a conversation with Ms. Herdman on the phone. There was not an explanation for why the information had not been provided to us, only that it had not been provided. And, I got the answer that I've been getting for quite a long time from her, which is, 'I was not the original attorney on this case, and because I was not the original attorney on this case, I don't know what you have and what you don't have.'"

UNFORESEEN, LAST-MINUTE DELAY

Delano was scheduled for a four-day jury trial this week. Yet, at the last minute, an out-of-state expert witness for the defense received unfortunate health news that prevented her from traveling to Maryland to testify.

"She came down with some sort of a heart condition," Arora stated in court on January 21. "She had an EKG done yesterday, and apparently the results were not good... I think she was going through the emotions of finding out that she has this potentially very serious health condition, while also having a conversation with me, and apologizing about giving us this information a week out from trial."

Judge Lease asked Arora if the expert witness — hired to counter the prosecution's DNA evidence and results from the sexual assault exam — would be able to Skype from her home.

"There was no way she could make that promise, and of course, starting trial and not having our witnesses ready to go could be disastrous for us... We are in a position now where we have to ask for a postponement," Arora confessed.

The state's attorney's office did not contest the defense's request for postponement, acknowledging it is an unfortunate but understandable appeal.

"This has all kind of come crashing down in a very very short amount of time for us," Arora

added, disappointment notable in his voice.

Barring no additional setbacks, Delano will go before a jury on the week of April 27. The 43-year-old faces up to 21 years in prison on charges of second-degree rape and fourth-degree sexual offense.

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