



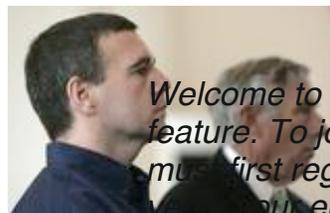
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Bail set for former Methuen officer charged with rape



Deborah Hammond

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former-Methuen-officer-charged-with-rape)

By J.J. Huggins

(<http://www.eagletribune.com>)

SALEM, Mass. — Former Methuen police Officer David Blache has been behind bars for 5 1/2 years, and for the time being, the only thing standing between him and the outside world is \$5,000.

A jury convicted Blache of raping a Haverhill woman while he was on duty and in uniform on Aug. 18, 2000. A jury found him guilty of rape in 2002, and he was sentenced to eight to 10 years in prison. But the state Supreme Judicial Court overturned his conviction last month and said he deserves a new trial.

So Blache appeared in Salem Superior Court yesterday for a bail hearing, where Judge David Lowy set bail at \$5,000 cash.

Blache's attorney, Joseph Monahan III of Cambridge, pleaded for personal recognizance, saying Blache can't afford bail. Assistant District Attorney Kate MacDougall asked the judge to set bail at \$100,000, arguing that Blache knows he was convicted the first time around, so he might flee if he's released while the new trial is pending.

"The commonwealth is concerned with the reality that he was in fact convicted and he does not want to go back (to prison)," MacDougall said.

The defense attorney pointed out that Blache was free on personal recognizance after being originally charged with rape and throughout the trial, and he showed up for all his hearings.

Blache, then 35, responded to a call about an unwanted guest at a River Place apartment that Friday night in the summer of 2000. He arrived and reported an intoxicated 26-year-old woman lacking money for a cab ride home to Haverhill and asked a supervisor for permission to drive her home.

The woman accused Blache of raping her in the back seat of his cruiser. Blache, who was later fired, admitted to having sex with the woman, but claimed it was consensual and took place on her couch. The issue of whether the victim was too intoxicated to consent to sex played a role in the trial.

Upon overturning Blache's conviction, the SJC concluded that Judge Barbara Rouse "failed to explain adequately" what must be established about an alleged victim's condition in order to determine whether that person is capable of consenting to sex.

The SJC cannot determine whether the judge's error prejudiced the jury, therefore, Blache is entitled to a new trial, Associate Justice Margo Botsford wrote.

The SJC refined the standard judges should use when instructing the jury on incapacity, saying the language currently used is confusing. Judges should tell juries to determine whether "the complainant was so impaired as to be incapable of consenting to intercourse," the court said.

Blache was married at the time of the alleged rape, but he is now divorced. He owned a home in Methuen, but the house has been sold. If he gets out of jail, he will live with his mother in Methuen, his attorney said.

The prosecutor successfully argued that Blache should have to wear a monitoring bracelet if he gets out of jail to ensure he won't go near the victim, who now lives in Maine.

The woman is afraid of Blache, and Blache told her not to report the incident and that "police officers take care of their own," and he took her key chain with a photo of her son "and stated she should in fact look out for her own," MacDougall said.

The victim consented to the sex, then later determined she was going to report it as a rape, Blache's lawyer said.

Police searched Blache and his cruiser and never found the key chain, the lawyer said. He said the case is "more defensible" now, in light of the SJC decision.

The prosecutor noted that Blache was suspended from his job as a police officer before the rape allegation because of a separate incident where he had "sex with an adult woman while on duty."

If Blache should make bail, he still stands charged with — but not convicted of — rape. He will once again be presumed innocent until proven guilty. The judge ordered him to stay away from the victim and any potential witnesses, should he make bail.

The district attorney's office plans to take the case to trial again, said spokeswoman Karen Dawley.

Court officers escorted Blache from the courtroom in shackles and handcuffs. He is due back in court on March 28. The victim attended the hearing and declined to comment.

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