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Posted on Wed, Jan. 26, 2005

Mercer, fraternity, student sued over alleged assault

By Maggie Large
 Telegraph Staff Writer

A former Mercer University student filed lawsuits against the university, a local fraternity chapter and a Mercer student in connection with an alleged sexual assault in 2003.

In federal and superior court filings this month, a 20-year-old former Mercer student alleged that a member of Mercer's Sigma Alpha Epsilon fraternity sexually assaulted her two years ago at the fraternity's house on campus.

The federal suit claims that Mercer administrators had prior knowledge of previous assaults involving her alleged assailant and refused to punish him.

It said Mercer officials refused to respond to the alleged victim's claims of harassment by the young man and his fraternity brothers.

"We have not been formally served with the complaint. As a matter of policy, the University does not comment on pending litigation," said Mercer spokeswoman Jenny Butkus in a statement.

The woman is not being identified because the Telegraph does not generally name persons who claim to be victims of sexual assault.

The alleged assault took place Jan. 10, 2003, after fraternity members and the woman attended a "Drink and Drown" party at a local bar.

The suit alleges that Daniel Day, 22, took the woman back to the fraternity house, where she tried to call a friend to come get her. Day allegedly assaulted the woman while she was in a state of "semi-consciousness," the suit said.

The court filings claim that Day once dated the alleged victim, but that they had broken up. They also allege that Day had a history of sexual assault complaints at Mercer, but give no details.

Day's attorney, John G. Parker of Atlanta, said "We'll be filing responding pleadings in which we'll deny, categorically, the allegations." Parker said he would seek dismissal of the suit and compensation for legal fees and court costs.

"This is a frivolous, unfounded and unjust suit," he said. "People who know (Day) understand that the allegations are false."

He called Day's family "a well-known, well-positioned family" that once owned the Days Inn hotel chain.

The woman's attorney, Amanda Farahany, said her client was disappointed that Day was never prosecuted. Farahany said the woman was harassed by Day and his fraternity brothers after she reported the alleged assault.

"She ended up having to leave Mercer because she could not continue to be around him," Farahany said.

The woman is continuing her studies at another college in Georgia and hopes that her suit will result in some changes at Mercer, she said.

Bibb County District Attorney Howard Simms said the Macon Police Department investigated the women's claim, but the case was never forwarded to his office for prosecution. He said he didn't know why, because he hadn't seen the files.

Macon police detective Nathaniel Jordan, who Simms said investigated the case, did not return calls Tuesday.

In the federal court filing, Farahany said sexual assaults are handled differently than other crimes reported at Mercer.

"To date, I have not found a time that a Mercer student has been prosecuted for sexual assault," she said.

Simms said he wasn't sure about Farahany's claim.

"I know that we've prosecuted defendants that assaulted victims who were Mercer students," Simms said.

The federal suit alleges the Sigma Alpha Epsilon fraternity chapter at Mercer "had a history of sexual assault allegations," including use of a date rape drug, but gives no other details.

No one answered the phone number listed for the Mercer chapter, and no one answered the door at the fraternity's house on the Mercer campus last night. Calls to the national Sigma Alpha Epsilon organization were not returned Tuesday.

Farahany also has filed suit against Mercer involving an alleged October 2000 rape on campus.

A lawsuit by the alleged victim accuses the school of not doing enough to warn students about protecting themselves from crime. The lawsuit also accuses the school of failing to enforce its own rules against drinking and drugs on campus.

The rape, the lawsuit alleges, occurred in a sorority house shortly after the campus' "Greek village" opened in 2000. The former Mercer student filed suit after the Bibb County District Attorney's Office declined to prosecute, citing a lack of evidence.

Farahany is awaiting a court decision this year on that lawsuit that could force Mercer to open its police records.

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