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Kevin Spacey is trying to avoid showing up for his arraignment in Nantucket assault case

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Kevin Spacey.

By [Matt Rocheleau](#)

GLOBE STAFF DECEMBER 28, 2018

Actor Kevin Spacey is seeking permission to avoid appearing at his upcoming arraignment on a felony charge that he sexually assaulted an 18-year-old man at a Nantucket bar in 2016.

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Defendants are required to appear for court arraignments unless their appearance is waived by a judge, according to Massachusetts court officials.

Spacey's attorneys have filed a motion asking to excuse his presence at the hearing scheduled for 11 a.m. on Jan. 7 in Nantucket District Court.

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Court officials did not immediately provide a copy of that filing Friday.

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But they did provide the Globe with a copy of prosecutors' response opposing that motion and asking the judge in the case to deny it.

Cape and Islands Assistant District Attorney Michael K. Giardino argued for the prosecution that

Spacey's appearance is required under state rules for criminal case procedure.

Giardino cited [a rule](#) that states "a defendant who receives a summons . . . shall be ordered to appear before the court for arraignment on a date certain."

"At no time was there any agreement between the defendant and [prosecutors] with respect to the issue of the defendant's appearance for arraignment," Giardino wrote in the document dated Thursday.

"Furthermore, during a telephone call on December 27, 2018 with [Spacey's] attorney [Juliane] Balliro, she was specifically informed that [prosecutors] would not agree to the waiver."

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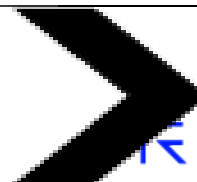
Spacey, 59, faces a felony count of indecent assault and battery, which carries penalties of up to five years in prison or up to 2½ years in jail or a house of correction and a requirement to register as a sex offender, according to court documents.

Spacey faces [numerous other criminal investigations](#) into sexual assault accusations, which began surfacing in the fall of 2017 and prompted his removal from the TV show "House of Cards." His role in a Ridley Scott film was also cut.

The Nantucket case first came to light in November 2017 when former Boston news anchor Heather Unruh [publicly accused](#) Spacey of groping her then-18-year-old son at the Club Car bar on the island. [On Monday](#), the Globe first reported Spacey was facing charges. Shortly after that, Spacey broke his year-plus Twitter silence Monday by sending out a bizarre, cryptic [video](#) in which he seemed to be portraying Frank Underwood, his character from "House of Cards."

Spacey and his lawyers have not spoken publicly about the case since the criminal charge was filed, but an [audio recording](#) of a court hearing held earlier this month provides some insight into how the attorneys plan to defend him.

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Also at that Dec. 20 hearing, the attorneys tried to rush Spacey's arraignment, asking that it be held that day, but court officials told them no judge was available.

During a subsequent exchange with the clerk as they discussed picking an arraignment date, one of Spacey's attorneys, Los Angeles-based lawyer Alan Jackson said of Spacey: "He's available anytime."

Matt Rocheleau can be reached at matthew.rocheleau@globe.com. Follow him on Twitter [@mrochele](https://twitter.com/mrochele).

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