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Alleged victim's cellphone is missing in Kevin Spacey sex-assault case

By [Matt Rocheleau](#) Globe Staff, June 19, 2019, 2:38 p.m.



Kevin Spacey left Nantucket District Court in January following his arraignment on a felony count of indecent assault and battery. JESSICA RINALDI/GLOBE STAFF

The lawyer for a man accusing Kevin Spacey of sexually assaulting him at a Nantucket bar nearly three years ago said his client cannot find the cellphone that a judge ordered him to turn over to the actor's lawyers by Friday.

Spacey's lawyers want the phone so they can try to extract information they claim was [deleted](#), including text messages they say would help Spacey disprove the allegations against him.

Spacey faces a felony charge of indecent assault and battery stemming from a July 2016 encounter with the man at the Club Car bar.

The two-time Oscar winner allegedly plied the man, then 18, with drinks after the man's shift as a busboy at the bar ended. Spacey then allegedly unzipped the man's pants and fondled him.

Spacey has [pleaded not guilty](#), and his lawyers have called the allegations "patently false," [describing](#) the encounter as "mutual and consensual flirtation, nothing more."

In documents filed in Nantucket District Court Wednesday, the alleged victim's Boston attorney, Mitchell Garabedian, wrote that the man's mother, former WCVB-TV news anchor Heather Unruh, gave the phone to police in December 2017, around when the criminal probe began.

The alleged victim, who has a different last name than Unruh, has been named in court records. The Globe does not identify, without their consent, people who allege sexual assault.

Garabedian said police notes indicated the phone was returned to the alleged victim's father, but the father said "he has no memory of receiving his son's phone from the police."

Likewise, Unruh and her son said they haven't seen the phone since it was provided to police, nor has Garabedian or anyone in his office, the attorney wrote.

The alleged victim "and his family have searched all the places where such a phone may have been stored. They have not found the phone."

Garabedian said the family is "in the process of engaging a digital forensic expert to search for likely backups" of the phone, but that is expected to take "a few weeks."

"We anticipate at that time being able to report not only about the search for the subject phone but also about other sources of the sought after information," Garabedian wrote.

Judge Thomas S. Barrett on Wednesday granted Garabedian's request to postpone Friday's hearing and extend the deadline for the phone to be turned over until July 8.

If the phone isn't produced by then, the alleged victim, Unruh, and Garabedian must appear in court on that date to testify about its "whereabouts and condition," Barrett wrote in his ruling.

Garabedian, who is well-known for representing hundreds of clergy sex-abuse victims, is representing the family on civil matters related to the case, although no civil suit has been filed.

Garabedian declined to comment beyond Wednesday's court filing.

Prosecutors and Spacey's lawyers did not immediately respond to a request for comment Wednesday.

Part of Spacey's legal team's strategy has [focused](#) on getting copies of [information](#) from the man's [cellphone](#) and the phones of others whom he contacted.

According to police reports, the alleged victim used his phone to record footage of the encounter with Spacey via Snapchat. He also texted and called his then-girlfriend that night.

Spacey made a [surprise appearance](#) earlier this month in court, where his lawyers argued they should be allowed to examine the phone.

Barrett agreed in a [ruling](#) later that week, reminding the alleged victim, Unruh, and Garabedian about previous rulings the judge made calling for preservation of the phone's contents from the date of the alleged assault (July 7, 2016) through Dec. 31, 2017.

The accusation emerged about a year before the criminal case began. In November 2017, during an [emotional news conference](#), Unruh [accused](#) Spacey of sexually assaulting her son.

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