



Bruins 3, Penguins 4, Final

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# Nantucket judge orders Kevin Spacey accuser's father to explain missing cellphone in sex assault case

By [Matt Rocheleau](#) Globe Staff, June 21, 2019, 11:57 a.m.



Actor Kevin Spacey (left) sat beside his attorney, Alan Jackson, who at a June 3 hearing in Nantucket District Court argued the defense should be allowed to examine the accuser's cellphone. STEVEN SENNE/ASSOCIATED PRESS/ASSOCIATED PRESS

A Nantucket judge Friday ordered the father of the accuser in the criminal sexual assault case against actor Kevin Spacey to appear in court next month if his son's cellphone cannot be found, to explain what he knows about the device's whereabouts.

The ruling comes after a lawyer for the accuser's family this week said that though police notes indicate the phone was returned to the father, the father has no recollection of receiving the phone and other family members also [don't know where the device is](#).

Judge Thomas S. Barrett earlier this month ordered the phone be turned over to Spacey's lawyers, who want to try to extract information they claim was [deleted](#) from the device, including text messages they say would help Spacey disprove the allegations against him.

Spacey faces a felony indecent assault and battery charge stemming from a July 2016 encounter with former WCVB-TV news anchor Heather Unruh's son at Nantucket's Club Car bar.

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

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

In documents filed in Nantucket District Court on Wednesday, the accuser's Boston attorney, Mitchell Garabedian, wrote that Unruh gave the phone to police in December 2017, around when the criminal probe began.

But neither the accuser nor his parents recall seeing the phone since, Garabedian wrote.

The accuser “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.

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

If the phone isn’t produced by then, the accuser, Unruh, and Garabedian must appear in court on that date to testify about its “whereabouts and condition,” Barrett wrote in his ruling.

Spacey’s attorneys then requested that the father be ordered to appear as well, saying that in addition to police records there are “property receipts” that show the phone was returned to the father in December 2017.

Garabedian responded in a filing, saying, “This office is not aware of the existence of property receipts indicating the return of the cellphone.”

But Garabedian wrote that the father intends to appear at the next hearing.

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