



Bruins 3, Penguins 4, Final

Man who accused Kevin Spacey of groping him invokes Fifth when asked about missing cellphone

By [Matt Rocheleau](#) Globe Staff, Updated July 8, 2019, 3:57 p.m.

NANTUCKET — The young man who accused actor Kevin Spacey of groping him in a bar in Nantucket asserted his Fifth Amendment right against self-incrimination during a court hearing on Monday, putting the high-profile criminal case in jeopardy.

The man took the stand inside a packed courthouse, initially fielding questions from Spacey's lawyer about whether text messages had been deleted from his missing cellphone before investigators copied the information. He denied having any knowledge of deleted texts and frequently answered questions by saying he did not remember.

But after a short recess, Judge Thomas Barrett said the man had invoked his Fifth Amendment right and ordered the man's testimony stricken from the record.

Spacey's lawyer, Alan Jackson, called for the case to be dismissed, given the accuser's refusal to testify.

"The entire case is completely compromised," he said.



Alan Jackson, Kevin Spacey's lawyer, arrived at court on Monday. AFP/GETTY IMAGES

Prosecutor Brian Glenny asked Barrett for at least a week of additional time so his office can decide whether to proceed with the case. Barrett said the case “may well be dismissed.”

“The case revolves around this individual, and without him the Commonwealth will have a tough row to hoe,” he said.

Spacey faces a felony indecent assault-and-battery charge stemming from a July 2016 encounter at Nantucket’s Club Car bar with the man, who is the son of former WCVB-TV news anchor Heather Unruh. The two-time Oscar winner allegedly bought the then-18-year-old drinks after his shift as a busboy ended. Spacey was accused of unzipping the man’s pants and fondling 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.”

The accuser is named in legal filings. The Globe does not identify alleged victims of sexual assault without their permission.

Before invoking his Fifth Amendment rights, the accuser told Jackson he had “no knowledge of any deletions of messages from my phone.”

He conceded some data was missing “due to a variety of circumstances” but said “those circumstances were not related to any deletions.”

The accuser took the Fifth Amendment after Jackson told him about a Massachusetts law barring anyone from deleting or altering information that could be useful for prosecution. Jackson said those who violate that law can be sentenced to prison time.



Heather Unruh (left) arrived with her husband (right) and her son (not shown) at a pre-trial hearing in the Kevin Spacey sexual assault case at Nantucket District Court on Monday. AFP/GETTY IMAGES

Monday's hearing in Nantucket District Court also included testimony from the accuser's parents.

His visibly angry father gave heated responses to questions from Jackson and repeatedly interrupted him, prompting multiple warnings from the judge that he would be held in contempt of court if he did not change his behavior.

Unruh took the stand although she was told she could invoke the Fifth Amendment. The judge carefully questioned her before she spoke to make sure she understood the potential risks and ramifications of testifying.

"I have nothing to tell but the truth," Unruh said, her voice quavering as she wiped her eye. "I know it may be very unpleasant going forward. But I was raised to tell the truth."

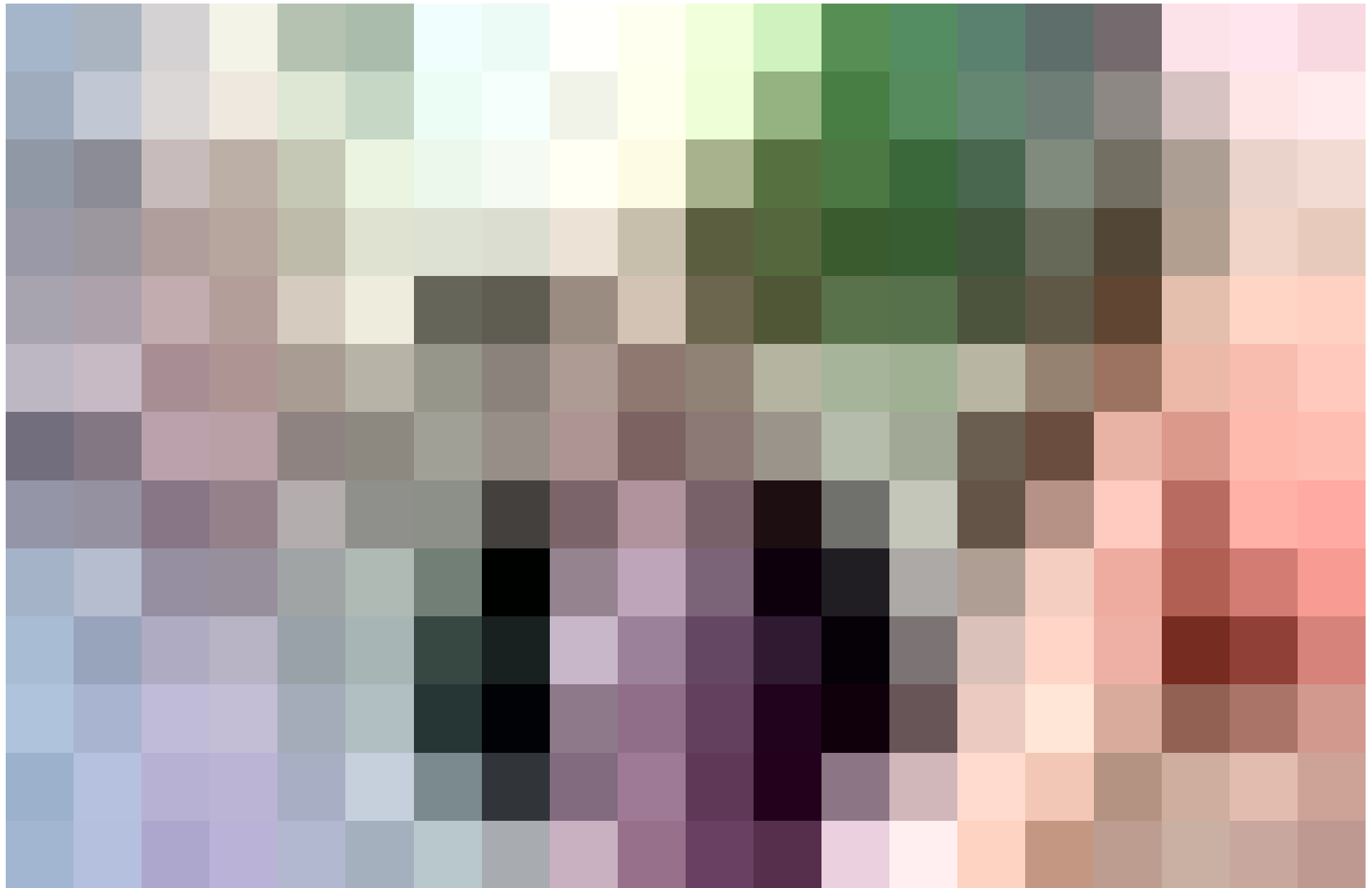
Unruh said the groping allegations brought by her son are "not untrue," to which Jackson replied, "We'll see."

Unruh acknowledged that she had deleted some material from her son's phone before turning it over to investigators, but said she had never tried to hide that fact from investigators. She said that the deleted information wasn't directly related to the allegations against Spacey and insisted that the deletions showed her son partying and getting high in college more than a year after his encounter with Spacey.

"I was a mother looking through my son's phone for the first time and saw things that concerned me," Unruh said. "I don't know a mom who wouldn't have done the same thing."

She said she initially looked through her son's phone after he told her "that he had shot a video of Kevin Spacey sticking his hand inside his pants, so I went looking for that video."

Jackson said even deleting material unrelated to the specific allegations against Spacey was problematic because it would prevent the defense from accessing material that speaks to the character and credibility of the accuser.



Mitchell Garabedian, who represents Heather Unruh and her son, outside the courthouse on Monday. AFP/GETTY IMAGES

The phone, which is now missing, has emerged as a key issue in the legal saga.

According to police reports, the accuser used his phone to record footage of the encounter with Spacey via Snapchat. He also [texted](#) his then-girlfriend that night during his encounter with Spacey. Screenshots of the text messages were taken by the accuser and sent to investigators.

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

Barrett recently [ordered](#) that the phone be turned over to Spacey's lawyers.



Kevin Spacey's legal team, which is headed by Alan Jackson (right), arrived at Nantucket District Court on Monday. AFP/GETTY IMAGES

Two State Police troopers who investigated the case said in court Monday that they remembered returning the phone to the accuser's father after a forensic analysis was conducted in December 2017, though they acknowledged they failed to

document returning the phone at the time.

The father said in court that he did not remember ever receiving the phone, and attorney Mitchell Garabedian, who represents Spacey's accuser, said in court Monday that the accuser and his parents [don't recall](#) seeing the phone since Unruh gave it to prosecutors in November 2017.

Garabedian suggested it was not their responsibility to hold onto evidence in the criminal case but was instead the responsibility of Cape and Islands District Attorney Michael O'Keefe's office to safeguard any evidence while a criminal case is pending.

Jackson said that the accuser and the prosecution are both avoiding responsibility for the disappearance of the potential evidence and that the cost is borne by Spacey and his effort to vindicate his claims of innocence.

"They are pointing fingers at each other . . . but guess who loses because of this — that would be us," Jackson said.

Barrett asked the parties to give him a status update on the case by July 31.

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