

**VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF CHARLOTTESVILLE**

**KATHRYN LINDSAY RUSSELL,**

**Plaintiff,**

**Case No. 06-39**

**v.**

**CURTIS NKRUKAH OFORI,**

**Defendant.**

**AMENDED MOTION FOR JUDGMENT**

The Plaintiff, Kathryn Lindsay Russell, by counsel, moves this Court for judgment against the Defendant in the amounts stated below. In support of this Motion for Judgment, the Plaintiff states the following:

1. The Plaintiff, Kathryn Lindsay Russell, is a citizen of the Commonwealth of Virginia and of the United States and currently resides in the City of Newport News. Ms. Russell was an undergraduate student at the University of Virginia from August 2001-May 2004 and resided in Charlottesville; she has since graduated from Clemson University.

2. The Defendant, Curtis Nkrumah Ofori, is a citizen of the United States currently residing inside the Commonwealth of Virginia. Mr. Ofori was an undergraduate student at the University of Virginia from August 2001 until May of 2005. During the time Mr. Ofori was a student at the University of Virginia, he resided in the City of Charlottesville. All of Mr. Ofori's actions which are the basis of the claims asserted against him occurred during the time he lived in the City of Charlottesville.

## STATEMENT OF FACTS

3. On February 12, 2004, Ms. Russell attended an event held at O'Neill's Irish Pub (sometimes referred to as The Pub or O'Neill's), 1505 University Ave, Charlottesville. She arrived at the Pub at approximately 7:00 pm. She was not accompanied by Mr. Ofori, she left the event without Mr. Ofori.

4. At the time, Ms. Russell and Mr. Ofori were both in the spring of their third year as undergraduates at the University of Virginia.

5. The parties did not have a social relationship at any time prior to February 12, 2004. They were acquaintances through Phi Beta Lambda (the UVA Chapter of Future Business leaders of America) and also participated in the same class during a previous semester.

6. During the course of the evening, Ms. Russell mingled with her friends at the Pub. She spoke to Mr. Ofori two or three times in passing. Mr. Ofori attempted to flirt with Ms. Russell, including placing his hands on her shoulder and leg. She did not reciprocate, nor was she attracted to him or encouraging to him.

7. Ms. Russell departed O'Neill's Irish Pub with Ms. Marcie Camp, Ms. Russell's roommate, at approximately 2:00am on February 13<sup>th</sup>, 2004. They walked to Ms. Camp's car on 14<sup>th</sup> Street; Ms. Camp was the driver.

8. Shortly after getting in the car Ms. Russell received a cell phone call from Mr. Ofori requesting a ride to his residence on Virginia Avenue. Both women discussed his request and agreed.

9. When Ms. Camp's car arrived in front of O'Neill's, Mr. Ofori got into the back seat of the vehicle. Ms. Camp and Ms. Russell remained in the front seats.

10. Ms. Camp missed the turn to Mr. Ofori's house; Ms. Russell urged her to turn the car around, but she did not.

11. As Ms. Camp continued to drive, Mr. Ofori asked to be taken to the Copley Dorms, which are located across the street from Ms. Camp and Ms. Russell's residence. As they neared the Copley Dorms, Mr. Ofori stated that his intention all along was to stay at the residence of Ms. Russell. Despite verbal protests from Ms. Russell, Ms. Camp parked her car in front of their building and Ms. Camp then exited her car and went directly to her bedroom, leaving Ms. Russell alone with Mr. Ofori.

12. Ms. Russell was intoxicated and unable to drive Mr. Ofori home. She retrieved an air mattress from the trunk of her vehicle for Mr. Ofori to sleep on in their living room prior to ascending the stairs to their 2<sup>nd</sup> floor residence.

13. After entering the apartment, Ms. Russell took the mattress to her room to use the air pump to blow up the air mattress. Mr. Ofori followed her into her room.

14. While Ms. Russell was attempting to fill the air mattress, Mr. Ofori grabbed her from behind several times. Ms. Russell asked Mr. Ofori to leave the room.

15. Ms. Russell attempted to leave and verbally protested Mr. Ofori's actions. Mr. Ofori prevented her from leaving by holding her arms.

16. Ms. Russell again attempted to leave. Mr. Ofori then positioned himself between Ms. Russell and the door. He shut the door and turned out the light, staying between Ms. Russell and the door.

17. Mr. Ofori pushed Ms. Russell onto the bed.

18. Ms. Russell did not remove her own clothes, instead Mr. Ofori forcibly removed

them . Mr. Ofori removed his own clothes without assistance from Ms. Russell. Ms. Russell continued to verbally protest in any way she could, while unable to gain her freedom.

19. Mr. Ofori engaged in sexual intercourse with Ms. Russell. She repeatedly told him to stop what he was doing and that it was hurting her; he ignored her pleas.

20. A roommate knocked on the door at the time Mr. Ofori was still inserted into her. Ms. Russell attempted to acknowledge the roommate, but Mr. Ofori rested his body on her and whispered for her to remain quiet. She was afraid to cry out for help.

21. Mr. Ofori also forced Ms. Russell to perform oral sex that caused her to gag.

22. Mr. Ofori also forced Ms. Russell into sexual intercourse a second time.

23. At no time did Ms. Russell consent in any way to having sexual relations, or to being touched in a sexual or intimate manner, by Mr. Ofori.

24. During the events described above, Mr. Ofori knew or should have known that Ms. Russell had not consented in any way to having sexual relations, or to being touched in a sexual or intimate manner by him. He was further aware that his actions were causing Ms. Russell pain.

25. Ms. Russell reported the rape to a friend the very next day, Saturday, and several other friends and her boyfriend on Sunday. She reported the rape to the University clinic on Sunday and the University police and University hospital on Monday.

26. As a result of the actions of Mr. Ofori, Ms. Russell suffered both physical and psychological injuries. She has permanent Temporo Mandibular Joint (TMJ or lockjaw) from the extreme stress of the attack. She has also suffered from severe emotional distress related to post-traumatic stress disorder, including but not limited to loss of sleep, inability to stay asleep,

constant thoughts of the attack, loss of appetite, panic and anxiety attacks, emotional numbness, thoughts of suicide, fear of leaving her home, nervousness, fear of forming emotional relationships, fear of being sexually attacked, humiliation, severe personality changes including extreme depression, a loss of trust in herself and others, withdrawal from friends and family, identity issues, severe anger, obsession, nightmares, exaggerated startle response, inability to concentrate or think clearly, improper reactions in non-threatening social situations, as well as other extensive negative experiences. She was forced to withdraw from classes and failed a course. Because of her fear of seeing Mr. Ofori on campus, or that he might attack her again, and her need and desire to avoid locations that would trigger thoughts of the attack she dropped out of the University of Virginia and left the area. It is possible that she will never fully recover. She has also incurred medical bills for treatment of her injuries.

### **COUNT I: ASSAULT AND BATTERY**

27. Mr. Ofori's actions in continuing to engage in sexual relations and physical contact with Ms. Russell, after being told by her to stop, constituted a threatening act that put her in the reasonable fear that he would cause her a physical injury, a threat that she reasonably continued to feel until she parted from Mr. Ofori. As such, Mr. Ofori's actions constituted an assault against Ms. Russell under Virginia common law.

28. Mr. Ofori's actions in engaging in sexual relations and offensive physical contact with Ms. Russell, without her consent, caused her physical harm and constituted a battery against Ms. Russell under Virginia common law.

29. Mr. Ofori's actions forcing Ms. Russell to engage in oral sexual contact

constitutes a battery.

30. Mr. Ofori's actions in taking advantage of Ms. Russell's incapacity in order to engage in intimate and unconsented physical contact with her were acts done willfully, maliciously, wantonly, and with deliberate and outrageous disregard for Ms. Russell's rights. Mr. Ofori's actions constituted a battery against Ms. Russell.

31. The injuries and damages suffered by Ms. Russell as described above were the direct result of Mr. Ofori's actions as described in this Motion for Judgment.

### **COUNT II: GROSS NEGLIGENCE**

32. In engaging in sexual activity with Ms. Russell as described above without Ms. Russell's consent, Mr. Ofori acted with gross negligence, i.e., he acted in a manner which showed such indifference to her as to constitute an utter disregard of caution amounting to a complete neglect of her safety.

33. In engaging in sexual activity with Ms. Russell as described above while Ms. Russell was severely intoxicated, Mr. Ofori acted with gross negligence, i.e., he acted in a manner which showed such indifference and lack of due care that amounted to a willful indifference of her rights and safety.

34. As a direct result of Mr. Ofori's actions, Ms. Russell suffered physical and emotional injuries and other damages, as described above.

### **COUNT III: NEGLIGENCE**

35. In engaging in sexual activity with Ms. Russell as described above without Ms. Russell's consent, Mr. Ofori acted negligently, i.e., he failed to use the ordinary care that a reasonable person would have and should have used under the circumstances of this case to determine, prior to engaging in sexual acts with Ms. Russell, that she had consented to those acts and to see that no harm came to her as a result of his actions.

36. Mr. Ofori's failure to exercise such ordinary care caused Ms. Russell to suffer physical and emotional injuries and other damages, as described above.

### **REQUEST FOR RELIEF**

WHEREFORE, the Plaintiff, Kathryn Lindsay Russell, moves this Court for the entry of judgment against CURTIS NKRUKAH Ofori, the Defendant, as follows:

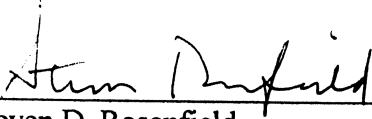
A. Under Count I, granting her compensatory damages in the amount of one million five hundred thousand dollars (\$1,500,000.00) and punitive damages in the amount of three hundred thousand dollars (\$300,000.00); or, in the alternative,

B. Under Count II, granting her compensatory damages in the amount of one million eight hundred thousand dollars (\$1,500,000.00) and punitive damages in the amount of three hundred thousand dollars (\$300,000.00); or in the alternative,

C. Under Count III, granting her compensatory damages in the amount of one million five hundred thousand dollars (\$1,500,000.00); and punitive damages in the amount of three hundred thousand dollars (\$300,000.00); or, in the alternative,

D. Granting her such other and further relief as to this Court shall seem just and proper.

Respectfully submitted,  
KATHRYN LINDSAY RUSSELL  
By Counsel



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