

**OFFICE OF THE DISTRICT ATTORNEY***State Of North Carolina**Fourteenth Prosecutorial District**201 East Main Street, Sixth Floor**Durham, North Carolina 27701**Tel. (919) 564-7100**Fax (919) 560-3220**Michael B. Nifong*
*District Attorney***MEDIA RELEASE**

April 12, 2007

As you know, on yesterday, Attorney General Roy Cooper announced that his office had made the decision to dismiss the remaining charges in what has come to be known as the Duke Lacrosse Case. While I certainly take issue with some of Mr. Cooper's comments, I want to make it clear that I have every confidence in the investigation into the case that was conducted by his office. I have known Jim Coman and Mary Winstead for more than two decades. Both their legal abilities and their commitments to justice are beyond reproach. Obviously, they have had access not only to all the evidence that I had, but also to additional evidence that I have not seen which they developed during their twelve weeks of independent investigation. I have every confidence that the decision to dismiss all charges was the correct decision based on that evidence.

At the same time, it is important to remember that the Attorney General had the opportunity to review this investigation and to make this decision because I requested that he do so. [Copies of my letter making that request and the Attorney General's response thereto are attached.] It is also important to remember that I turned over to him every document, every photograph, every piece of evidence of any kind that had been turned up in the Durham Police Department's investigation of these cases and in my office's review of that investigation. If I did not want to subject either that investigation or my own performance to such scrutiny - if, in other words, I had anything to hide - I could have simply dismissed the cases myself. The fact that I instead chose to seek that review should, in and of itself, call into question the characterizations of this prosecution as "rogue" and "unchecked."

Finally, it is, and has always been, the goal of our criminal justice system to see that the guilty are punished and that the innocent are set free. We all want that system to work perfectly. At the same time, we all know that no system based on human judgment can ever work perfectly. Those of us who work within that system can only make the best judgments we can based on the facts available to us with the understanding that those judgments may have to be modified as more facts become known. That is the process I used in these cases, and that is the process the Attorney General used in these cases. To the extent that I made judgments that ultimately proved to be incorrect, I apologize to the three students that were wrongly accused. I also understand that, whenever someone has been wrongly accused, the harm caused by the accusations might not be immediately undone merely by dismissing them. It is my sincere desire that the actions of Attorney General Cooper will serve to remedy any remaining injury that has resulted from these cases.

A handwritten signature in dark ink that reads "M B Nifong".
Michael B. Nifong
District Attorney

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OFFICE OF THE DISTRICT ATTORNEY

State Of North Carolina

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*Michael B. Nifong
District Attorney*

January 12, 2007

James J. Coman, Division Head
Law Enforcement & Prosecution Division
North Carolina Department of Justice
9001 Mail Service Center
Raleigh, NC 27699-9001

Re: *State v David Evans, 06 CRS 5582-3
State v Collin Finnerty, 06 CRS 4332-3
State v Reade Seligmann, 06 CRS 4335-6*

Dear Jim:

As you know, I have been involved in the prosecution of the above-captioned cases, which comprise what is commonly referred to as the "Duke lacrosse case," since their inception. As you also know, there have been calls for me to remove myself, or for me to be removed, from the prosecution of these cases for nearly that long. I have resisted those calls because I did not believe that the circumstances of these cases fit your published criteria for accepting requests for assistance. Recent developments, however, have caused me to reevaluate that position.

On December 28, 2006, the North Carolina State Bar filed a complaint against me with its Disciplinary Hearing Commission over issues arising in the context of this prosecution. I believe that, in addition to fueling any existing public perception that I have a conflict of interest in this matter, this filing has also created an actual conflict, as I am now personally the subject of an investigation and charges in this case. This opinion is also shared by the North Carolina Conference of District Attorneys, who issued a news release on December 29, 2006, calling for my recusal and the assignment of these cases to another prosecuting agency.

As you are aware from our previous conversations, I was not able prior to this week to discuss these developments with the victim because of the precariousness of her personal health due to complications in her pregnancy. We finally spoke at length about this matter yesterday,

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after which she agreed that the case should be referred to you for prosecution. She also assured me that she would give you her full cooperation in this matter.

For all of the foregoing reasons, I am hereby requesting that the Special Prosecutions Section of the North Carolina Department of Justice immediately assume full responsibility for the prosecution of the above-captioned cases, which have been assigned by the Chief Justice of the North Carolina Supreme Court to the Honorable W. Osmond Smith, III, Superior Court Judge.

These cases are currently scheduled for the hearing of motions during the week of February 6, 2007. Obviously, should you agree to take over this prosecution, we will do whatever you require to assist you during the transition of these cases to your control.

Very truly yours,



Mike Nifong
District Attorney

Cc: Honorable W. Osmond Smith, III
David Freedman



State of North Carolina

Department of Justice
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27602

Reply to: James J. Coman
Law Enforcement &
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ROY COOPER
ATTORNEY GENERAL

January 16, 2007

Mr. Michael B. Nifong
District Attorney
Fourteenth Prosecutorial District
201 East Main Street, 6th Floor
Durham, North Carolina 27701

Re: State v. David Evans, 06 CRS 5582-3
State v. Collin Finnerty, 06 CRS 4332-3
State v. Reade Seligmann, 06 CRS 4335-6

Dear Mike:

This will confirm receipt of your letter on January 12, 2007, in which you requested that the Attorney General's Office accept responsibility to review and determine what course of action to take in the above referenced cases. The Attorney General has determined the reasons stated in your letter meet the criteria for the acceptance of requests for assistance by the Attorney General's Office and as such we have agreed to accept this matter.

We will communicate with the Honorable W. Osmond Smith, III, Superior Court Judge who has been assigned by the Chief Justice to handle this matter, that the attorneys of record for the State henceforth will be James J. Coman, Senior Deputy Attorney General and Mary D. Winstead, Special Deputy Attorney General. We likewise will notify the defense attorneys that Mary and I will henceforth be the prosecutors in all matters related to these offenses.

I will have this letter delivered by one of the SBI agents who will be coming over to the Durham County Courthouse today to pick up all the files in the case. I appreciate your marking the files for us and making them available to us on such short notice.

Mr. Michael B. Nifong

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January 16, 2007

If you should have any questions regarding our acceptance of this matter for review and determination as to the appropriate disposition of these matters, please do not hesitate to contact us.

Sincerely,



James J. Coman
Senior Deputy Attorney General

JJC/spw