

Rolling Stone, journalist found responsible for defamation in University of Virginia rape story

By David Walsh
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On November 4, a federal court jury in Charlottesville, Virginia found *Rolling Stone* magazine, journalist Sabrina Rubin Erdely and Wenner Media responsible for defamation, with actual malice, in a case related to the article “A Rape on Campus: A Brutal Assault and Struggle for Justice at UVA.” The article appeared online in November 2014.

The case against *Rolling Stone* was brought by Nicole Eramo, the former associate dean of students at the University of Virginia.

Eramo claimed that Erdely’s article maliciously portrayed her as indifferent and uncaring in relation to sexual assault allegations and interested only in protecting the university’s reputation. The jury members agreed with her, 10-0.

After deliberating for less than two hours on November 7, the jury awarded Eramo \$3 million in damages, \$2 million to come from Erdely and \$1 million from Wenner Media. Eramo originally sued for \$7.85 million.

“A Case of Rape” was a lengthy and sensationalistic piece, focused on the alleged horrific gang rape of a then-18-year-old female student, “Jackie,” at a UVA fraternity house in September 2012. Erdely’s article identified the alleged ringleader of the attack and named the fraternity involved, Phi Kappa Psi. Erdely’s piece further accused the university of mishandling the case and exhibiting “institutional indifference” to sexual violence.

The *World Socialist Web Site* in December 2014 correctly characterized the *Rolling Stone* article as “a defamatory travesty of journalism.” We noted that the piece, entirely based on the claims of one young person, was “a mass of unsubstantiated allegations and anecdotes, stereotypes and dubious statistics.” The WWSW commentary added, “There is almost nothing in the article that can be pinned down as fact. It is neither convincing nor believable.”

Erdely’s deplorable article, as we noted at the time, provoked an uproar. The fraternity house alleged to have been the scene of the crime was picketed and vandalized, and the university suspended all fraternity activity on the campus until January 2015. UVA President Teresa A. Sullivan and various Democratic Party politicians issued demagogic statements largely corroborating the claims that the UVA campus was a hotbed of sexual assault and sexual violence.

The *New York Times* refused to exclude itself from this moral effluvia. Columnist Nicholas Kristof pontificated, “We collectively are still too passive about sexual violence in our

midst, too willing to make excuses, too inclined to perceive shame in being raped.”

However, certain journalists who were paying attention began to pick apart the alleged episode. A Charlottesville police department investigation ultimately found no evidence of an attack.

Rolling Stone began to back away from the article in December 2014, noting “discrepancies” in the piece. As a damage control measure, the magazine’s management commissioned Steve Coll, dean of the Columbia School of Journalism, and two colleagues to investigate the writing and publication of “A Rape on Campus.” The release of their results, sharply critical of *Rolling Stone*’s reporting, editing, editorial supervision and fact-checking, prompted the biweekly magazine to retract Erdely’s piece in April 2015.

What neither the Columbia School of Journalism’s investigation nor any leading voice in the media today will explain is *how* such a smear job came to appear in a publication that has prided itself for decades on its exposés and “hard-hitting” investigative journalism. To grasp that, one would have to look critically at the social dynamics of present-day America and the pivotal role that identity politics—the upper-middle class politics of race, sexuality and gender—currently plays.

Erdely and the *Rolling Stone* editorial staff had a certain conception of American campuses as places plagued by rampant sexual assault and they largely constructed their story around that, regardless the gaping holes in the article’s research, the implausibility of the narrative, and the likely damage to various individuals and institutions. In this effort, they were working with the tacit support of the Obama-Biden administration (whose policies on sexual assault Erdely praised in her original article), which has been shoring up support within the affluent petty-bourgeoisie by its supposed forcefulness on this issue.

As we have noted more than once, the fact that the Obama White House is responsible for war, death and misery on a massive scale in the Middle East and has presided over the immiseration of wide layers of the American population is of next to no concern to the warriors on sexual violence.

The defamation trial has shed some light on the shoddy methods, carelessness and irresponsibility of Erdely and *Rolling Stone* and brought out significant facts about the social attitudes of the various participants.

In his opening statement, Tom Clare, one of Eramo's attorneys, said, "This case is about a journalistic failure." According to the [Virginia] *Cavalier Daily*, Clare argued that contrary to the *Rolling Stone* article's suggestion that Eramo was uncaring toward Jackie, she "arranged meetings between Jackie and police." The newspaper reported further that Eramo's attorney told the jury, "*Rolling Stone* knew about these meetings—and included a reference to them in an early draft—but did not include any reference to them in the published article." Various witnesses testified as to Eramo's humane and concerned conduct.

Clare also contended that the magazine "did not check key facts of Jackie's story," and "pushed Jackie to participate in the story, only to blame her once the story starting falling apart after its publication."

On the witness stand, Eramo described her work with sexual assault survivors over the years and her awards for that work. She noted that these efforts were devastated by the *Rolling Stone* article. She told the court, "I was portrayed [by Erdely's piece] as someone who would manipulate young women to not report rapes." Eramo added later, reading from a letter she had written to the magazine following the publication of "A Rape on Campus," "Perhaps more egregious and shocking were the threats that I received expressing hope that I be killed or raped."

Even during the trial, Eramo was heckled as a "rape apologist" when she went outside during the lunch break. In court, she said she had also received threats aimed at her daughter.

Eramo explained that her ultimate goal was to hold *Rolling Stone* accountable. She asserted, according to the *Cavalier Daily*, that the magazine had "molded her into what they needed to fit its narrative without regard for the consequences on her life and career. 'I want to restore my reputation as best I can,' she said in court. 'I want to show the real impact on a human being's life.'"

In her testimony, Sabrina Rubin Erdely provided some insight into the conditions of a well-heeled journalist. Endeavoring to prove that Erdely was not under pressure to produce her article on the University of Virginia case, her attorney, Scott Sexton, asked about her career.

Erdely replied, "I feel very blessed as I advanced through my career. Once I got to *Rolling Stone*, I had contracts [worth] more than the average journalist makes." The *Cavalier Daily* continued, "Erdely said there was no financial pressure on her while writing 'A Rape on Campus,' as she knew she was being paid on a monthly basis, regardless." She had signed a contract with *Rolling Stone* guaranteeing her \$300,000 for seven feature articles.

Under cross-examination, Erdely acknowledged that there were discrepancies between her notes and the final article. In addition, Eramo's legal team made clear that the *Rolling Stone* journalist simply paid no attention to Jackie's changing story (and, frankly, psychological instability and unreliability as a source), failed to contact the fraternity in question, made no effort to question the alleged rapists, and so forth.

There is no innocent explanation for such an approach.

CBS News reported that in Clare's closing statement, he argued, "Once they [Erdely and *Rolling Stone*] decided what the article was going to be about, it didn't matter what the facts were." He concluded his summation by asking the jury members to hold the

defendants responsible for their actions.

In the course of the trial, the jury was shown a May 2016 deposition by Jann Wenner, founder of *Rolling Stone*, who remained unrepentant about publishing the original article. Wenner claimed, absurdly, that "We did everything reasonable and appropriate, up to the highest standards of journalistic [to] check on this thing."

In regard to the magazine's official retraction of the article in April 2015, Wenner expressed his disagreement with Managing Editor Will Dana's action. He said in his deposition, "Will Dana's retraction is inaccurate. I do not stand by it."

Remarkably, addressing Eramo directly, Wenner declared, "It was never meant to happen this way to you. And believe me, I've suffered as much as you have."

In his self-involvement and general social obliviousness, Wenner personifies what has become of the American "counter-culture" of the 1960s. He co-founded *Rolling Stone* in 1967, at the height of the protest era, supposedly to give a younger generation and its new music a voice. The magazine, thoroughly tamed decades ago, and related enterprises have made Wenner (reportedly worth \$700 million) and numerous others fabulously rich.

Unsurprisingly, the *Rolling Stone* publisher was an enthusiastic endorser of Barack Obama in 2008, gushing that the Democratic Party candidate possessed "the kinds of gifts that appear in politics but once every few generations." He added, "There is a sense of dignity, even majesty, about him."

This election year, Wenner claims to be nearly as keen on Hillary Clinton. His endorsement editorial in *Rolling Stone* in March suggested that Clinton was "one of the most qualified candidates for the presidency in modern times."

If nothing else, the *Rolling Stone*-University of Virginia fiasco demonstrates that subordinating the great social questions in America to the issues of gender and sexual violence is a false perspective and inevitably entails false and exaggerated claims. To substantiate the politically charged claim that Erdely and *Rolling Stone* were self-servingly attempting to prove—that a "rape culture" prevails in America—obliged them to make things up. The trial in Charlottesville establishes that much.

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