

SportsLetter Interviews

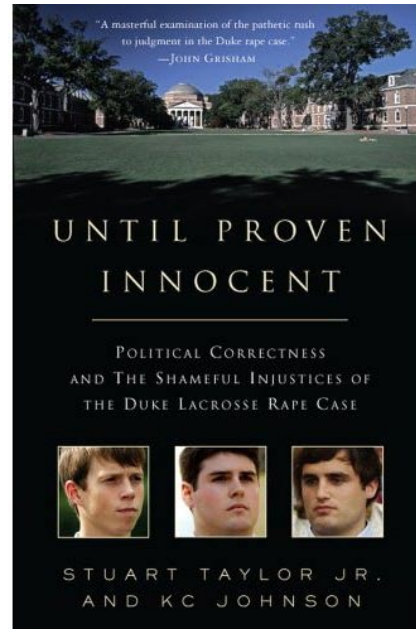
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Stuart Taylor Jr.

On March 13, 2006, members of the men's lacrosse team at Duke University hired two exotic dancers to perform at a party at an off-campus home in Durham, N.C. Early the next morning, one of the strippers alleged that she had been raped by several of the men. So began one of the most controversial, and misunderstood, legal cases in modern-day judicial history — one that touched upon issues of race and class as well as political correctness, prosecutorial misconduct and media hysteria in the Internet age.

The maelstrom catapulted the case beyond the Duke campus and the city of Durham. And, in the ensuing rush to judgment - including by many Duke faculty members and administrators, local law enforcement and the district attorney's office, and TV talking heads — judicial due process and the presumption of innocence were routinely ignored.

Journalist Stuart Taylor Jr., a columnist at the National Journal, wrote some of the earliest articles in support of the defense. Brooklyn College history professor KC Johnson started a blog called "Durham-in-Wonderland", that analyzed the complex developments in the case. Now, the two have collaborated on a book, entitled "Until Proven Innocent: Political Correctness and the Shameful Injustices of the Duke Lacrosse Rape Case" (Thomas Dunne Books/St. Martin's Press). The meticulously researched book castigates the prosecutor's handling of the case as well as the behavior of many journalists and Duke faculty members



and administrators. Ultimately, they conclude, the rush to judgment scapegoated three innocent student-athletes at Duke.

As Jeffrey Rosen, a professor of law at George Washington University, wrote in his review of the book in the *New York Times*: “But if the authors are at times carried away by righteous indignation, they can surely be forgiven in light of the consequences of the abuses they describe. Taylor and Johnson have made a gripping contribution to the literature of the wrongly accused. They remind us of the importance of constitutional checks on prosecutorial abuse. And they emphasize the lesson that Duke callously advised its own students to ignore: if you’re unjustly suspected of any crime, immediately call the best lawyer you can afford.”

A Harvard Law School graduate, Taylor is a columnist at the *National Journal* and a contributing editor at *Newsweek*. *SportsLetter* spoke with Taylor by telephone from his office in Washington, D.C.

— David Davis

SportsLetter: You’ve noted that a parent of a team member on the Duke lacrosse team is a personal friend of yours. Is that how you first got involved in writing about the case?

Stuart Taylor Jr.: That’s what first brought my attention to it. This was about April 5 of 2006. It had been in the headlines nationally for a little over a week, but I had not been paying attention. Then, I got a call from a college friend, Larry Lamade. His son is on the team. He said, “Have you heard about this case?” I said, “Well, a little bit.” He said, “The district attorney is running around, claiming that there was this terrible rape. The whole thing’s a lie — there was no rape, there was no sex — and the DNA will prove this. If you’ll take a look at the evidence, you’ll see that this is all a fraud.”

That was reason enough for me to investigate it. It was obviously not reason enough to write anything unless the fruits of my investigation bore out what he was telling me. But they did. After doing some reading and research and doing some interviews, I decided that it very probably was a fraud.

SL: When you first wrote about the case, did you think that a rape — or something — had happened?

ST: In my initial story, I think I wrote that I was 85 percent convinced that it was a fraud. I wrote something to that effect in late April of '06 [for the National Journal], which I think was the first such article that anybody in the national print media wrote. It seemed to me that the case was falling apart at such warp speed at the time I was writing it, I was afraid that the whole world would figure out it was a fraud during the 36 hours between when we went to press and when it was published. It turned out, of course, that the whole world just rushed past all the evidence that seemed so compelling to me. Most of the media and many on the Duke faculty continued to trash these kids as guilty. It was after watching that spectacle for a while that I began to think, "Man, something interesting and sick is going on here, and maybe it's worth a book."

SL: What kept you from going to 100 percent?

ST: Partly, it was whether the District Attorney [Michael Nifong] might have something up his sleeve that he wasn't revealing. In particular, he had been claiming — and the police had been claiming — that there was conclusive medical evidence that the woman had been raped. They were proclaiming this so confidently that it gave me pause. I thought, "Well, my God, who raped her if not one of the lacrosse players?"

What ultimately made me 100 percent convinced that it was a fraud came about through the law in North Carolina called "open file discovery." This meant that the D.A. had to give all of his evidence to the defense. He did that — really, he gave most of his evidence because he cheated a little bit — on May 18 of 2006. I got my hands on that evidence before the end of the month and went through it. And, as the defense had told me, it was just astonishing. Every piece of paper in the prosecutor's file reinforced that the players were innocent. In particular, the medical records showed no physical evidence whatsoever of rape. Quite the contrary: the kind of rape that she described could not possibly be reconciled with the medical records because she would have had all sorts of injuries that the medical records did not show.

SL: Did you go to Duke during the initial weeks of the case and see the campus protests?

ST: No, I was not there. I think the first trip I made down there was in late May, which was about two months after it started.

SL: At what point did you decide to do a book on this and how did you get together with co-author KC Johnson?

ST: I started thinking about it seriously in mid-to-late May. The purpose of my trip in late May was to interview the defense lawyers and anybody else I could and to look at the evidence that had come from the prosecutor's files. I wanted to feel confident about the facts of the case because I thought the story was about much more than whether or not these lacrosse players had done a rape. It was about a deep sickness in the nation's media and in academia, where people were so eager to believe that these lacrosse players had committed a rape in the face of evidence to the contrary.

With KC, he had started writing his blog, which ultimately became known as "Durham-in-Wonderland," at roughly the same time I got interested in this — in April of '06. His initial interest was because he had noticed that a group of Duke professors, the so-called "Group of 88," had written a disgusting ad in the school paper essentially attacking the lacrosse players as guilty. He thought this was just an outrageous breach of their duty as professors to their own students.

We were both talking to the same people, and we both saw the case similarly. We didn't start collaborating on the book until December, when the case began to really fall apart. With the case falling apart, it was clear that the book needed to be finished soon, because we didn't want the book to come out three years after the case was over. So, it became obvious that the best way to cover all of the material about the case was to see if KC would join me. I was very glad that he did.

SL: As you mention, Professor Johnson has said that his interest in the case came about because of the professors' reaction to the case. What was your motivation to write about this?

ST: KC came in because of the academic outrages, and then he became interested in all aspects of the case. I came in because of the legal and journalistic outrages, and then became interested in all other aspects of the case.

Once we dove into it, I think we both concluded that, if you had to list the villains in order of how evil they are, the prosecutor would go at the top of the list. But if you had to list the villains in terms of how representative they are of similar types around the country, the academics would go at the top of the list and the journalists would come a pretty close second.

SL: How much did the access you had with the players and their families and the defense teams influence your opinion about the case and how it was handled?

ST: We had very good access, and I came to be very fond of the players and their families. But I was conscious from day one that the book would have to stand or fall on how consistent it was with all of the evidence, including evidence that was negative about the lacrosse team. So, I was very careful never to become a captive of the players and their parents and their point-of-view simply because I liked them. Everything needed to pass the evidence test. Fortunately, just about everything they said to me did pass the evidence test.

SL: Why do you think there was such a rush to judgment from the media?

ST: We have a chapter heading entitled “Politically Correct Sensationalism,” and that’s it in a nutshell. I think you had all the usual forces of sensationalism that any spectacular alleged crime brings out. In this case, the desire to sensationalize the case for the usual reasons was working completely in synch with the political biases of people at the New York Times and a lot of other people in the national media.

They just fell in love with the mythical morality play: Here are these rich, white lacrosse players oppressing the poor, black working mom. A lot of them seem to believe that it’s always the privileged people who are oppressing the poor people and the men are always oppressing the women and the whites are always oppressing the blacks.

In fairness to the media and a lot of other people who rushed to judgment, it's very rare for a district attorney to be screaming at the top of his lungs that these players are guilty and they're racists, as Nifong was essentially doing. So, it was a little understandable at the beginning. The trouble was, when the evidence began to pour out that he did not have the goods, most of the people who had rushed to judgment did not let the contrary evidence get in the way of their fun.

SL: Do you think part of this was because of the 24-hour news cycle that we exist in?

ST: It probably was a factor. I'm not the best analyst about this because I don't watch much TV. But, obviously, when every hour you have to worry about somebody who's coming on the air an hour later beating you on the story, that creates a certain pressure to jump to conclusions quickly and to try to get ahead of the story. The one little problem with getting ahead of the story is to get ahead of the evidence and get it wrong.

SL: How influential were Internet blogs — versus the mainstream media — in this case?

ST: They were very influential among the people following the case closely because the blogs were where the action was. Like with KC's blog, the best of them completely outclassed the national media. The trouble was, you had to spend a lot of time reading through everything. So, in terms of the broad public perception, there wasn't much impact for a long time.

SL: Were there any journalists who got it right from the get-go?

ST: The one who came closest to getting it right from the get-go, ironically, was the first New York Times reporter on the case, a fellow named Joe Drape, who covers horse racing. As the book reports, he went down there the first day or two and reported what Nifong was saying. That's what reporters should do — he's the DA and he's important. But then Drape started interviewing the defense lawyers — one of the defense lawyers told me that [Drape] called him ten times — and he came to believe in the defense's case and that the woman was probably not credible. He came

to think this very early, and he wrote stories that covered the defense side while others were ignoring the defense side. The defense lawyers were waiting for the great New York Times story that would vindicate them, but then, according to one of the defense lawyers, Joe Drape called and said that the story was not going to come out. Right about that time, his byline disappeared off the story.

There were others who got it right. Two of them were New York Times op-ed columnists: David Brooks and Nicholas Kristof. Dan Abrams did good work for MSNBC, Chris Cuomo did good work at ABC News. Joe Neff, an investigative reporter at the Raleigh News & Observer, did good work. They were the exceptions.

SL: You come down harshest on the coverage from the New York Times, where you worked from 1980-88. Why was the Times so off-base on this and how would you compare this case with the Times' coverage about the lack of women members at Augusta National?

ST: I think those two resonate together. On Augusta National, they had the kernel of a legitimate story, which was that the club doesn't admit women and this is terrible. But they just beat it to death. It was as if nothing else was going on in the universe except that rich women can't play golf at Augusta National. In that case, it wasn't a matter of factual inaccuracy. It was a matter of loss of any perspective and obsession with the PC theme.

In the Duke case, obsession with the PC theme led the Times and many in the national media to just completely disregard the facts. Their sports columnists did it: Selena Roberts and Harvey Araton wrote hateful stuff. Their reporter, Duff Wilson, did it after Drape was off the story. It was just an astonishing spectacle because, long after almost everybody else seemed to get it, the Times kept flogging the idea that there might really be a solid case here.

SL: On this, did you have any contact with reporters you knew at the Times?

ST: I did have sources associated with the Times. I was never able to get inside the Times in terms of being utterly confident about what editor was

driving the train. I had my suspicions, but I couldn't prove them. I did have sources who confirmed to me the essence about how things were working at the Times.

SL: You also come down harshly on members of the Duke faculty that rushed to judgment about the case. Why didn't they support the students at their own institution?

ST: I think you're touching on what I see as the most important general lesson of the book in terms of the state of America today. I think the universities — and the humanities departments in particular — are rotten with what I call "PC disease." I'm not talking about liberal bias. I'm talking about extreme left people who have wormed their way into tenured positions at universities in considerable numbers.

Usually, they're these eccentrics off in their own corner. In this case, they formed themselves into a lynch mob and did a lot of harm. They were enablers to the prosecutor. I don't think a prosecutor in the nation could've kept such a phony case alive for so long if it hadn't been that it looked as though the Duke faculty and administration believed him.

SL: Was there an anti-athlete, anti-sports component in this?

ST: Quite a number of these professors are anti-athlete. Part of it, I gather, is a philosophical thing: they don't like competition. They don't respect athletic competition, and a lot of them just don't respect athletes.

SL: Have the faculty members — and, in particular, the "Group of 88" — ever apologized to the team members?

ST: As far as I know, only one of them has publicly apologized.

SL: You write that Duke administrators — including President Richard Brodhead and Board Chair Robert Steel — essentially caved in to the faculty by refusing to support the players. Why did they do so?

ST: The spectacle of [Harvard University President] Larry Summers being ridden out of town by the hard-left faculty in Cambridge was very

fresh in the minds of Duke administrators when this happened. That was a dramatization of something they all knew already — which is, that the one way a high-level university administrator can be destroyed and see his career cut short is if he crosses the hard left-wing of the faculty. These people take no prisoners. If you cross them, they will call you a racist or a sexist or a homophobe. So, I think there was a lot of pressure on President Brodhead to appease the hard-left faculty, or his own career would be at risk.

Another factor that was working in synch was that they were worried that the town might blow up because Nifong and the faculty had whipped up so much racial ill-will among the Durham black community. There were fears that there might be a riot or a shooting or a strike, and that would be terribly damaging to Duke's reputation.

With all that, I think it's hard to sort out how much of it was appeasing the faculty and how much of it was worrying about the town. Between those two forces, the Duke administration went a long way towards throwing in its lot with the mob.

SL: In the immediate aftermath, how difficult would it have been for the administration to support the players and what they should have done differently?

ST: We never said that they should have rushed out and said, "They're innocent!" At first, the administration had a duty to show some deference to the law-enforcement process. What we criticized them for was they not only showed some deference for the law-enforcement process, but they completely laid down even as the prosecutor was openly and flagrantly violating the constitutional rights of these kids and violating legal ethics rules by publicly denouncing them.

Then, as the evidence of their innocence came pouring out, the administration kept acting as though they were guilty, kept talking about them in a very disparaging way. [Brodhead] made them sound like racists, which was a lie. He made them sound like terrible, misbehaving people, which was highly misleading.

SL: Did Duke's athletic department support the players and the coach?

ST: For the most part, no. Joe Alleva, the athletic director, was almost universally despised by the lacrosse players for the way he handled this. I think that's because they saw him as someone who was close enough to the situation to know the facts but who, for reasons of his own expediency, bowed down to the administration's throwing them under the bus.

There were three in the department who stood out in a good way: Mike Pressler, the wrongly fired coach. He never buckled. Chris Kennedy, the assistant athletic director, was the one guy in the hierarchy who basically was fair to the lacrosse players and told them that he believed them throughout. For this, our book reports, he was cut out of the Duke administration's counsels on this. And Kerstin Kimel, the women's lacrosse coach, was the first person who spoke up against the lynch mob. She continued to be a tower of strength and courage.

SL: Did the NCAA ever make a statement about the case or try to intervene with the coach's firing and the suspension of the team?

ST: I don't remember the NCAA ever being a factor. Way late in the game, in the last few months, the NCAA has enabled [the players] to have another year of eligibility.

SL: Do you think, with college athletes being more and more in the spotlight these days for off-the-field problems, that that contributed to the initial hysteria and rush to judgment?

ST: There was certainly an element of that. I've been struck by how many sportswriters seem to have that attitude — that, because they're athletes they're automatically guilty. Now, there have been stories — a lot of them true stories — about athletes behaving badly. Very badly, in some cases. But the word that comes to mind over and over again when you look at reactions to this is stereotyping. A lot of people were willing to assume that, because athletes had been accused of doing something terrible, they must've done it because you know how those athletes are. Well, that's what some of them do, but it's not what others do.

SL: You write in depth about how the prosecutor and the Durham Police Department bungled the case. What were the most egregious errors they made?

ST: Well, I don't use the word "errors." I think that many of these people — including Nifong and some of the police — were guilty of a deliberate conspiracy to frame people they knew to be innocent or probably innocent. There's a lawsuit that the players have filed, and they use some language that I think is right on the money. This is a quote from the complaint: "One of the most chilling episodes of premeditated police, prosecutorial and scientific misconduct in modern American history."

What you have is a large cast of characters, led by Nifong, who may well have believed the charges at the very outset. But when the evidence that came available to them very early on made it quite clear that these charges were probably phony, they just kept charging ahead. When defense lawyers came to them — as several did beginning March 27 of 2006 — and said, "Let's sit down. We have evidence that should prove to you that this didn't happen," the district attorney refused to talk to them. That's unheard of. There's a phrase for that attitude in criminal law: "willful blindness to the truth." They didn't want to look at evidence that would prove that their case was phony because they were determined to go ahead with it anyway.

SL: So, why did prosecutor Nifong continue on with the case? Do you think that he was corrupt?

ST: He was corrupt, I think, in the sense that he was so desperate to win the election that he was in the midst of when this case came onto his radar screen that he would stop at nothing to win it. It just so happened that he was in this campaign that he was on the way to losing — the polls showed that and the campaign donations showed that — to a woman named Freda Black, who was going to fire him. We know this from his campaign manager at the time: he was determined to win the election because his pension depended on filling out three more years in the office.

The one way he could win [the election] was doing something spectacular that would bring the black vote to his side. And, bingo!, here's this case

where he could scream and yell about the poor black woman being raped by the privileged white men. That fired up the black vote.

SL: Were you able to interview Nifong for any story that you wrote or for the book?

ST: No. I don't think he gave interviews to anybody. I tried. The first two columns I wrote, I sent questions to him through his assistant. I never got a response. I approached him in the courtroom once and asked to talk to him, and he said he wasn't going to talk to me. It wasn't surprising a) because I had publicly been critical of him and b) because he didn't seem to be talking to anybody in the media.

The cops wouldn't talk to us either, but we had something that was a pretty good substitute. We had all their files.

SL: Do you think the punishment that Nifong got was deserved, or should it have been more?

ST: Well, he got disbarred. He was found in contempt of court for lying to the court. He spent 24 hours in jail. On the one hand, I think he deserves to spend several years in prison — and that could happen if he's prosecuted for violating their federal civil rights or for obstruction of justice. At the moment, that doesn't look very likely. I'm not going to lose a whole lot of sleep over him not going to jail for a longer time. He's basically finished. He's ruined.

SL: To return to the three lacrosse players who were accused of the crime and coach Pressler: What's the status of their lives today?

ST: Each of the players lost a year of their lives, and they'll have to live with reputation problems for the rest of their lives, even though they were cleared. Dave Evans graduated the day before he was indicted and then had a job in the Washington area. After he was cleared, he got the kind of job he really wanted, which was at a big investment bank in New York. He's working there and doing fine. Reade Seligmann spent most of the lost year coaching at his old high school and doing volunteer work around home. He was a sophomore, and now he's a junior at Brown and playing

lacrosse there. Collin Finnerty spent a year coaching and working around home. Now, he's at Loyola University in Baltimore, which is a big lacrosse school.

All three are admirable kids and strong kids. I'm hoping that this does not haunt them. You know, there's always going to be people who look at them and say, "Oh, yeah. He's the guy who got away with rape at Duke, isn't he?" They've got to live with that.

Mike Pressler now coaches at Bryant University in Rhode Island. It's a Division II school and not a big lacrosse power. But he's a standup guy. He's very grateful that they took him in when nobody else would. I expect that he'll be back at a Division I school before too long.

SL: What's the status of the players' lawsuit against Duke?

ST: The three wrongly accused defendants recently settled with Duke. I don't know exactly how much they were paid, but it was a lot. That covered their legal fees with some leftover. Now, they have sued Durham. They're really throwing the book at Durham, and I think they will win. Obviously, they're asking for damages and compensation, but most of what they want is reforms for the benefit of future defendants.

The other lawsuit that is being threatened is from the majority of the other 44 members of the lacrosse team. They're threatening to sue Duke for what Duke did to all of them.

SL: I read that HBO has bought the rights to the book. Is that true and will it be a feature film or a documentary?

ST: We have an oral agreement with HBO. They've announced it, and I'm certainly hoping it goes through. Assuming that the deal goes through, it's going to be a feature film.