

## Rape Charges Dropped Against Schoolteacher Montco Prosecutors Said The Woman, Who Was The Man's Former Student, Had Fabricated The Story.

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An Abington schoolteacher accused of rape by a former fifth-grade student was exonerated yesterday because, Montgomery County prosecutors said, the purported victim had made the story up.

Being considered now, the prosecutors said, are criminal charges against the teacher's accuser, Margaret Powell, 23.

Michael Gallagher, 60, was arrested in January after Powell told authorities that he had raped her repeatedly during the 1985-1986 school year, when she was in his fifth-grade class at Willow Hill Elementary School in the Abington School District.

"We have determined that Mr. Gallagher was wrongfully accused by the young lady involved," District Attorney Michael Marino said at an afternoon news conference, adding that the charges of rape, statutory rape, and involuntary deviate sexual intercourse against Gallagher had been dropped.

Gallagher said that his faith, his family, and the support of the community, particularly other Abington teachers, had helped him in the months since his arrest.

"Unless you've been a victim of a false accusation, you cannot believe the mental pain and suffering our family has been through for the last nine months," Gallagher said.

His wife, Betty, said she had been "completely incredulous" at the accusations. "I couldn't believe they could do that to my husband."

Prosecutors concluded that the allegations had been fabricated during pretrial interviews with Powell in September, when, they said yesterday, they found discrepancies in her story. Gallagher's trial had been scheduled to begin Nov. 30.

Powell initially told prosecutors that she had not told her father about the incidents when they occurred; in September, Marino said, she said she had told him.

"That was the first inconsistency," Marino said. "There were many others after that."

As prosecutors found more discrepancies, Powell began changing her story, said Assistant District Attorney Mary Fittipaldi, who was handling the case.

"She began to add additional details," Fittipaldi said. "It seemed to me she was trying to embellish the case and make it better as we moved closer to trial, which raised my suspicions."

The last straw came last week, Fittipaldi said, when, after failing a lie-detector test, Powell admitted that she was "not sure" whether sexual intercourse with Gallagher had taken place. Prosecutors then decided to drop the charges.

Prosecutors also found an anonymous 1993 letter Powell admitted writing to Abington district officials that said, in part, "within the last two years, I've had recovered multiple memories of sexual molestation that I believe occurred during my 1985-86 placement in [Gallagher's] class."

Marino said Gallagher would never have been arrested if prosecutors had known that Powell's allegations were based on so-called recovered or regressed memories.

"Our office does not believe in that," Marino said. "And it's been pronounced by the Supreme Court of Pennsylvania that it is an inappropriate" basis for rape charges.

Both Marino and Robert Adshead, Gallagher's attorney, said they had no idea why Powell might have singled out Gallagher. Marino said the District Attorney's Office had acted properly in the case based on the information it had.

"When you have a charge of rape, that's a crime that generally occurs in secret," Marino said. "You're dependent upon the truthfulness of the victim. There is no empirical evidence to that effect, so you're relying on the oral testimony of a human being."

Marino called Powell a "bright young woman . . . with a proper demeanor . . . and every indication of credibility and truthfulness." He said his office's investigation of Powell was continuing.

A woman answering the phone at Powell's Cheltenham Township home last night said, "We're not taking calls," and hung up.

Fittipaldi said she did not think Powell had retained an attorney.

Gallagher, a 26-year veteran of the Abington School District, said that he had forgiven Powell, but that he had not yet decided whether to return to teaching. After his arrest, he was suspended without pay from his job as a fifth-grade teacher at Overlook Elementary School.

Abington Superintendent Jim McCaffery said yesterday that Gallagher was welcome to return, and that the district would give him his back pay.

Adshead, Gallagher's attorney, said: "The blame in this case is centered squarely . . . on the shoulders of one person, and that's Margaret Powell." He added that Gallagher may sue Powell.

Gallagher said he would work to make sure other teachers did not face similar accusations in the future.

"We must not allow teachers to be vulnerable to such attacks and false accusations," he said. "I pledge personally to work for a law that will protect all educators in Pennsylvania from such vicious and unfounded charges. Right now, teachers hardly have a chance to defend themselves."

"There should be punishment meted out by the courts," Gallagher said. "Whoever makes false accusations should go to jail."

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