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Innocent until proven guilty only for some athletes

Earlier this month, Chicago Blackhawks fans let out a sigh of relief when they learned that star right winger Patrick Kane would not face criminal charges in New York for the alleged rape of a 21-year-old woman.

The investigation into the young woman's claims against Kane lasted approximately three months. It was determined that there was no physical or forensic evidence to back up the claims.

During the three-month investigation there was controversy regarding Kane's refusal to speak and whether he should be practicing or playing until more was known.

Many Kane fans held out hope that the serious allegations were baseless. A pressing concern was whether Kane was actually the victim of false accusations due to his high-profile hockey career. Others were outraged that a star who was already known as a "bad boy" would simply go on as if nothing happened.

Throughout the pending rape investigation, Kane was permitted to participate in training camp and NHL preseason games for the Blackhawks. Further, he never missed any regular-season games because of the case. What was unknown yet to the public, but known to the Blackhawks and the NHL, was that Kane's DNA was not found on the alleged victim or her clothing.

After a sideshow involving an alleged empty evidence bag, it was determined that criminal charges would not be pressed against Kane. Many, of course, came out in the media saying, "We knew all along that he didn't do anything wrong."

In sexual assault cases involving athletes, there is typically great speculation regarding who the actual victim is — the alleged victim or the accused athlete.

Sometimes, a loss of an athlete from a team could cause such a negative impact that people try

not to believe the possibility that the alleged victim could actually be telling the truth.

Because the prosecution of a criminal case could easily take over a year, it is unreasonable to prevent an athlete from participating in their respective sport before some official finding of guilt, especially since the lifetime of an athlete's careers is notoriously short.

But, as sports fans, how do we support the national movement for the empowerment of victims of sexual assault to speak out when we refuse to believe alleged victim's allegations until our favorite athletes are actually proven guilty in court?

Shouldn't a responsible league do an immediate investigation to see if there is at least a preponderance of evidence to suspend pending a final adjudication?

Morals clauses in athlete's contracts do not usually require a criminal conviction to take action.

The criminal justice system's principle of "innocent until proven guilty" is usually reinforced when it comes to professional athletes being accused of sexual assault crimes. But isn't the issue of player conduct harmful to the league?

When supporting the criminal justice system's presumption of innocence coincides with supporting our favorite athletes, our position on pending sexual assault cases appears simple.

Generally, it is impossible to deny that the criminal justice system is not always an option for the victims of sexual assault because these cases are often "he said, she said" situations.

Additionally, the high criminal standard of beyond a reasonable doubt prevents many sexual assault and rape cases from even proceeding in court. When this happens, innocence is legally presumed, but we know being "not guilty" of a crime is not the same as being "innocent."

Innocence has been presumed in the case of the first pick of the 2015 NFL draft, Tampa Bay

TIME-OUT

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Buccaneers quarterback Jameis Winston.

Winston was a star football player at Florida State University who was well-known for winning the Heisman Trophy. Lesser known was that during college in December 2012, a fellow student, Erica Kinsman, accused Winston of raping her.

Although the DNA evidence tested in Kinsman's case matched Winston's DNA, the Tallahassee Police Department failed to gather enough evidence to support pursuing a criminal proceeding against Winston.

A student conduct hearing was held at Florida State but the judge ruled that evidence was insufficient to find Winston responsible for violations of the university's student conduct code.

Despite the lack of a criminal or student conduct conviction against Winston, Kinsman tells her side of the story in a documentary, "The Hunting Ground," which debuted earlier this year at the Sundance Film Festival.

The documentary centers upon the overall problem of college campus rape investigations and highlights the extra hurdles that are created for alleged victims when college athletes are the alleged perpetrators of such crimes.

As a supporting example, "The Hunting Ground" features the rape investigation against Winston while he was attending

Florida State. Upon learning that the documentary would be aired on CNN, Winston's legal team took action.

Winston's attorney wrote a letter to CNN (released to the media prior to the airing of the documentary) claiming that Winston would sue the network if they aired the documentary. The warning claimed that portions of the film are false and defamatory to Winston.

Winston's legal team's efforts failed, and this past Sunday night, the documentary aired on CNN as planned.

However, on Sunday many Tampa Bay Buccaneers fans and Winston supporters were likely distracted when Winston tied the NFL record for passing touchdowns in a game by a rookie in a victory over the Philadelphia Eagles.

We should still expect that Winston will file suit against CNN for defamation.

This possible upcoming legal battle with CNN will not be Winston's legal team's only case. Earlier this year, Kinsman filed a civil lawsuit against Winston regarding the now very public incident. Also pending is Winston's countersuit against Kinsman for defamation.

Unfortunately, some star athletes often enjoy a culture of entitlement even when they are being accused of very serious crimes. Sometimes this entitlement carries on, even after a rape conviction (see Mike Tyson).

For lesser-known individuals, including many college athletes, such allegations ruin their athletic careers, notwithstanding a legal presumption of innocence.

For example: In 2007, a young woman pressed charges against nine De Anza Community College baseball players for a list of crimes including sexual assault and rape as a result of an incident that occurred at a house party.

Ultimately, there was insufficient evidence to pursue criminal charges against the athletes, but the media convicted them all of

guilt, including incriminating coverage on ABC's "20/20."

Some players were suspended from the Cupertino, Calif., baseball team and never returned to the sport. The alleged victim went on to file a civil suit against nine of the players, accusing them all of a list of crimes including rape "and/or" failure to stop an assault.

During the civil case, the judge dismissed allegations against two of the ballplayers, some reached settlement and a jury found the remaining two not liable on all counts ranging from rape to

negligence.

Some of the De Anza players to this day are in court battling their insurance companies over denying coverage for legal fees to defend them in the civil proceedings.

Also in 2007, the infamous Duke lacrosse rape scandal was prominent in the media and involved three lacrosse players who were labeled guilty of rape, despite no legal finding of guilt.

Duke suspended the players from the lacrosse team based upon the rape allegations. But it was later determined that the young men were innocent.

The Duke lacrosse trial especially emphasized the importance of the presumption of innocence, and the great injustices faced by the falsely accused athletes. However, it also supported the shadow of doubt that people cast upon sexual assault and rape survivors.

Sexual assault cases involving athletes of all kinds have historically been far too common, whether credible or baseless. In these cases, some athletes go essentially unharmed and some lose their careers. The alleged victims always lose, even if they ultimately win in court.

Oftentimes, due to high criminal justice system standards, we will never know truth in these situations despite our choice to side with an accused athlete or an alleged victim.

The main challenge presented here is, while waiting for a sexual assault case to play out, how do we reconcile our acknowledging that there is an incentive to some to falsely accuse athletes specifically of these crimes (and our hope that they are innocent) with the fact that likely most victims of sexual assault are actually telling the truth?