

Hello all,

I've been working on the email below for over a week and meant to send it yesterday but didn't. I apologize for not telling you both about this agreement before there was a story in our newspaper. I didn't know there would be a story about a plea that hasn't occurred and about which nothing has been made public.

I've accepted an offer on Jacob Anderson. It's for probation on the charge of Felony Unlawful Restraint not Sexual Assault – therefore, he will not have to register as a sex offender. I realize this is not the outcome we had hoped for or that I had originally offered, but I tried a very similar case to this one last month, and lost. Which was devastating to the family and victim involved. In light of the similarities between the cases, it's my opinion it would be worse to try Anderson and lose and have the entire matter wiped from his criminal history than to accept this plea offer. Not to mention the emotional damage [REDACTED] would have to deal with if she had to testify and then felt the jury thought she was a liar.

The defendant will have to go through the Pre-Sentence Investigation process for 6 weeks or so after his guilty plea. During that time probation will reach out to [REDACTED] and seek her input, and whatever she says will be conveyed to the Judge of that court – Judge Ralph Strother – when he decides whether to reject the plea agreement or to accept it and place Anderson on felony probation.

The other case – State v. Hunter Morgan – was covered in the Waco Trib and as I said was very similar to Jacob Anderson's case. In that case, the defendant also had no criminal history other than the offense on trial. He was also eligible for probation, but the jury understood that even with probation, somebody convicted for a first time offense would have to register as a sex offender for the rest of his life. The case involved drinking by the victim to the point of incapacitation. The victim had kissed another male student – other than the defendant – earlier in the night and in public at a bar. The victim had not met the defendant prior to this night. All parties – friends of the victim, roommate of the victim, even the defendant – agreed she was too intoxicated to give consent. The

defendant in a police interview admitted he had carried her to his bed because she had passed out on his couch. The victim had injuries to her genitals and the defendant's DNA in her underwear. I actually thought the Hunter Morgan case was stronger than Jacob Anderson's because Morgan admitted the victim was intoxicated, too intoxicated to consent, and he admitted he wasn't intoxicated at all. One weakness I've always identified with Anderson is that he was drinking also – and although I think he's exaggerating – he acts as though he was extremely intoxicated at the time he was at the frat party.

The jury didn't deliberate very long at all. And did not ask to see the defendant's interview. It began as 7 to 5 for guilty, and the strong not guilty jurors talked the 7 into a not guilty in less than 2 hours. Three of the male jurors told me "they would not send anyone to prison for that." One of the female jurors – a nurse – said she didn't think the defendant "looked like a rapist." Another female said she personally didn't act as the victim did when she was intoxicated, so the Victim's behavior didn't make sense to her. That same female juror said she believed the sexual activity began consensually and then the victim just didn't remember in the morning. The jury said we called "too many experts" – being the SANE nurse and the DNA expert. The SANE nurse is the same one who treated [REDACTED]. The jury completely rejected that the injuries were caused by nonconsensual sex. So, even though the Defendant denied sex, they thought the injuries were caused by sex because the victim was too drunk to fully participate. To speak frankly as to the injuries in Anderson, the research suggests that victims with no sexual experience are more likely to be injured because a sexual encounter is their first. So medically speaking, [REDACTED] innocence and lack of experience makes the medical evidence less helpful. A few of the male jurors thought the DNA in the Morgan victim's underwear proved nothing - merely that she'd been around him.

In short, I think this jury was looking for any excuse not to find an innocent looking young defendant guilty. They engaged in a lot of victim blaming – and the behavior of that victim and [REDACTED] is very similar. It's my opinion that our jurors aren't ready to blame rapists and not victims when there isn't concrete proof of more than one victim. I have had success in trying college aged defendants yes,

but in retrospect, ONLY when they have multiple victims. Multiple victims put the focus properly on the criminal's conduct. That didn't happen when there was only one victim and one event to talk about. While I can't imagine the upset y'all will feel at believing Anderson isn't getting what he deserves, I don't want him to get away with his crime entirely. Part of his probation will be getting sex offender treatment and alcohol treatment. Without these terms, and if he's just found not guilty, there will be no reason to think his conduct will be different the next time he's in a bar and finds a woman who can't defend herself. Given the similarities, I'm surprised the defense attorneys on Anderson are willing to plea him to anything and I don't want to squander the opportunity for there to be some consequence for him that might alter his behavior in the future.

The plea is scheduled for 9/4 – the sentencing won't occur until after our probation department does a pre-sentence investigation. [REDACTED] will have an opportunity to voice her concerns to the probation department and to the judge during that process – which usually takes 6 to 8 weeks.

Again I'm sorry you had to find out online and not by this email with all the reasons why I decided to accept this proposal.

**Hilary C. LaBorde**

*Assistant Criminal District Attorney*

McLennan County District Attorney's Office

219 N. Sixth St., Suite 200

Waco, Texas 76706

[REDACTED]  
[REDACTED]  
[REDACTED]