

Jurors Believed Cops Were Guilty of Rape, But Lack of DNA Forced Acquittal

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MANHATTAN — Members of the jury that acquitted two NYPD officers of raping a woman in her East Village apartment told DNAinfo that despite the verdict, they believed the cops were guilty.

But they felt a lack of DNA evidence meant they had to acquit — a decision which is causing anguish for some.



"In my heart of hearts, I believe her that the officers did it," said juror Melinda Hernandez.

Another female juror, who asked not to be named, said of former NYPD officer Kenneth Moreno: "He raped her. There is no doubt in my mind."

The verdict, she said, was "a slap in the face for women."

Prosecutors said Moreno, 43, raped the 29-year-old fashion executive while his partner, Franklin Mata, 29, acted as lookout during one of their four visits to her to her East 13th Street apartment on Dec. 7, 2008.

Moreno and Mata had been sent to escort the woman home from a taxi after she spent a night drinking with friends to celebrate a promotion.



The woman testified during the seven-week trial that despite alcohol-induced blackouts, she distinctly remembers Moreno raping her as she lay unable to fight him off.

Jurors believed her, but felt they could not convict Moreno and Mata because of a lack of DNA evidence, a phenomenon many legal experts have referred to as the "CSI effect."

"We were strictly bound by the judge's instruction that there must be evidence beyond a reasonable doubt in order to convict the defendants of the major charges of the case," said juror John Finck, 57.

Prosecutors, he added, did not meet that burden.

"My heart breaks for her," Hernandez said. "I think the system failed her terribly."

The woman, whose identity is being withheld, said her "heart broke" when she heard the not guilty verdict.

"I have waited two and half years for closure that will now never come," the woman, who has since moved out of the city, said in a statement.

Despite being acquitted on rape and burglary charges, Moreno and Mata were found guilty of three official misconduct charges, all misdemeanors, and could be sent to prison. They were fired by the NYPD immediately after the conviction.

They may face time when they are sentenced on June 28 by Manhattan Supreme Court Justice Gregory Carro — something at least one juror believesthey deserve.

"[Moreno and Mata] need to do some time because of the charges," said the unidentified juror.

Lawyers familiar with the judge's prior ruling said Carro, who was described by the attorneys as "fair" and "tough," is very likely to "throw the book at" the ex-officers, particularly after they disparaged their accuser to the media within minutes of the verdict.

"I believe she made the whole thing up," Moreno said then.

His wife also trashed the woman, saying she brought rape charges against Moreno and his partner in search of a multimillion dollar lawsuit payout.

"When you get a verdict like that you should keep your mouth shut and run from the courthouse," said criminal defense attorney Lawrence Fisher, a regular at 100 Centre Street. "He may have done himself in ... through his poor decision-making."

The judge, through his law secretary, declined to comment.

"If I were a betting man, I'd bet he's going to incarcerate them, but I don't know for how long," said Daniel Gotlin, a long-time criminal defense attorney.

Gotlin said he thinks Moreno and his wife's comments are "not going to sit favorably" with Carro.

"I think he'll absolutely throw the book at them," said a source in the district attorney's office, who could "not imagine" the sentence would be less than two years.