

## ***How The Hunting Ground Blurs the Truth*** **About Sexual Behavior on Campus**

The documentary is shaping the public debate around campus rape.

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put opinion ahead of accuracy.

By Emily Yoffe

The recent documentary, *The Hunting Ground*, asserts that young women are in grave danger of sexual assault as soon as they arrive on college campuses. *The Hunting Ground* is helping define the problem of campus sexual assault for policymakers, college administrators, students, and their parents. But a closer look at one of its central cases suggests the filmmakers put advocacy ahead of accuracy.

The film has two major themes. One is that campus sexual assaults are not just a date gone bad, or a bad hook-up. Instead, the filmmakers argue, campus rape is “a highly calculated, premeditated crime,” one typically committed by serial predators.

One of the stories told in the film illustrates both of these points. It is the harrowing account of Kamilah Willingham, who describes what happened during the early morning hours of Jan. 15, 2011, while she was a student at Harvard Law School. She insinuates that a male classmate, a man she thought was her friend, drugged the drinks he bought at a bar for her and a female friend, and says that he then took the two women back to Willingham's apartment and sexually assaulted

them. When she reported this to Harvard, she says university officials were indifferent and even hostile to her. “He’s dangerous,” she says in the film of her alleged attacker, as she tries to keep her composure. “This is a rapist. This is a guy who’s a sexual predator, who assaulted two girls in one night.” The events continue to haunt her. “It’s still right up here,” she says tearfully, placing a hand on her chest.

An allegation of sexual assault is a grave one. If proven true, it can rightly end a perpetrator’s education and send him to prison. Because the stakes are so high, it is crucial, in telling stories of sexual assault, to fairly examine the assertions of both sides. Despite the filmmakers’ assurances, *The Hunting Ground* fails in this regard. I looked into the case of Kamilah Willingham, and the evidence is dramatically at odds with the account presented in the film.

Willingham’s story is not an illustration of a sexual predator allowed to run loose by self-interested administrators. What happened that night was precisely the kind of spontaneous, drunken encounter that administrators who deal with campus sexual assault accusations say is typical.

*The Hunting Ground* does not identify the man. But I have found the man. His name is Brandon Winston, now 30 years old. Earlier this year, he was tried in a Massachusetts superior court on felony charges of indecent assault and battery. In March, he was cleared all felony charges. Following the trial, the Administrative Board of Harvard Law School, which handles student discipline, reviewed Winston’s case and voted to reinstate him. This fall, he will be allowed to complete his long-delayed final year of law school.

I learned of Winston's trial when a juror contacted me after it concluded to express dismay that Winston had been forced to stand trial—and had faced potential jail time—for what she saw as a drunken hook-up between students that aroused strong jealousy and a desire for revenge.

### **The Night in Question**

According to the transcripts from Winston's trial for assault, Willingham got to know Winston, who was a year behind her in school, when they worked together on a research project for a class they were both taking. Both tall and good-looking, they started seeing each other socially, and one time at Willingham's apartment they made out, but decided to be just friends. After the project concluded, they drifted apart, each busy with school and new romantic involvements. But by the winter of Willingham's third year of law school, her relationship had ended, and Winston's was winding down as well. The two began exchanging messages about finding a time to reconnect.

On a Friday in mid-January, replying to a previous invitation from Willingham, Winston texted that he was near Willingham's apartment and he wanted to drop by. There is general agreement about how the evening began. Winston arrived around 7:30, and Willingham made him a drink of hot chocolate and liqueur. They looked at photos from a recent trip Willingham had made to Kenya to visit her mother, an American working for the United Nations, and were soon joined by a high school friend of Kamilah's. I'll call that friend KF (for Kamilah's friend). Both Willingham and Winston are black; KF is white. In a

detail left out of The Hunting Ground, Willingham brought out cocaine, which she and Winston (but not KF) consumed.

Around 11:30, the group decided to go to a bar, the Middlesex Lounge, and here the versions of events begin to diverge. KF testified that she had been drinking at Willingham's apartment, and just before they all left she was "starting to get hazy" and didn't clearly remember the cab ride to the bar. Her memory for the remainder of the evening consists of "walking to the bar then waking up the next morning." Once at the bar, Winston opened a tab; it eventually came to more than \$160. The three drank, talked, and danced with strangers. Then, late into the night, Winston testified that KF came over and started dancing with him: "KF puts her arms around my neck and starts kissing me, while we were dancing. I start kissing her back." He continued: "My hands were wrapped around her. Her legs came completely off the floor, wrapped around my body as we were grinding together." He said that while this was going on, Willingham was near them on the dance floor. On direct examination Willingham said she did not see them dancing; on cross-examination she said that she did.

A little before 2 a.m. the bar closed, and Willingham walked a few blocks to get a cab. She testified that KF was very drunk, had fallen down at the bar, and needed help walking. Winston testified they were all drunk but he never saw KF fall, and she was able to walk to the cab. He also testified that he'd left his bag at Willingham's apartment, that he asked her in the taxi if he could go back to her apartment and spend the night, and that she said yes. None of them had any cash, so when the cab arrived at Willingham's apartment, the two women went into the building while Winston went to an ATM to pay the driver. Winston returned to Willingham's apartment, though the details of his entrance are in dispute:

Willingham testified she did not buzz him in and speculated he knew her door code; he testified he didn't know it and that she let him in.

Willingham testified that she was collapsed at her apartment door when Winston arrived, that he took her key to let them all in the apartment, and that the three of them went to the bedroom. She said she and KF flopped face first on the bed, and then Winston came in and took off both women's boots. She says she went to the bathroom to be sick, then came back to the bed and passed out. "I woke up and he was kissing me," she testified. "The next thing I remember is waking up with him on top of me. His hand was inside of my tights. I didn't know how long it had been there. I remember pulling it out of my tights. He was kissing me and touching me. I think I pulled his hair a little bit." She said she then reached her hand out and felt naked skin — it was KF's back. She said KF was naked from the waist up. She asked Winston how KF's top had come off, and Winston said he had taken it off. Then, she said, he reached out and stroked KF's breasts. (In *The Hunting Ground* Willingham says that she "yanked him by the hair" to get him to stop touching her and that KF was "totally naked.")

Winston's account is substantially different. He testified that he arrived at the apartment to find the door ajar and that he walked down the hall to Willingham's bedroom. Willingham was not there, but KF was, and she appeared to be asleep. He said he roused her and got her to sit up. They started kissing. "She had her hands around my neck and my hands around her body," he testified. He told her to lift up her arms, and he took off her shirt. They continued kissing, and he tried to unhook her bra. "I wasn't able to," he said. Then he passed out. He testified that the entire encounter lasted three to five minutes.

Winston testified that he was awakened by “a body that was rubbing against mine and a tongue in my mouth.” He thought it was KF; it was Willingham. As he came to, he rolled over, and Willingham wrapped her legs around him. He said that their clinch lasted about 30 seconds and that she never pulled his hair. He testified that he then told Willingham he was going to sleep on the couch in the living room. Both Winston and Willingham agree that she encouraged him to sleep in a spare bedroom. Willingham testified she did so because the living room was cold and the bed would be more comfortable for him.

The next day, Willingham began sending accusatory texts to Winston about KF. She recounts the initial exchanges in *The Hunting Ground*: “I said something very casually like, ‘Am I going to have to tell her that she needs a pregnancy test?’ And he said in the text message, ‘No we didn’t do anything serious. Maybe I put a finger in her v at most.’ ” Willingham’s mother then appears on screen saying, “It was pretty clear he had assaulted them while they were unconscious. I absolutely assumed that Harvard would do right by Kamilah.”

Winston testified that when he got the pregnancy question from Willingham he thought she was joking. The texts were introduced as evidence at the trial. Winston’s text in response was, “Very very funny Kamillah.” She replied: “hahaha...but for realz...did you put your p in her v?” His answer: “No!! I passed out after some minor touchings no more than what you and I were doing a finger briefly in the v at most.” Willingham’s questions and accusations continued, and Winston began denying any genital contact. In an instant message conversation, he stated he had not touched KF’s vaginal area. “There wasn’t any real touching going on. No fingering. I took her shirt off and then passed out.”

Over the next few days, Winston issued a stream of apologies to Willingham. She asked, in an instant message, “When is it ever okay to initiate something with someone while she’s asleep?”

He replied: “Never. I was seriously wrecked and I went too far. I wasn’t trying to force her. I know it sounds like it. I was talking to her the whole time, and she was talking back, but in that passed-out mumbling way that is essentially being asleep. And I was totally reckless, I know. I’m sorry.” He would later testify that while he didn’t believe he’d done anything wrong, he was trying to mollify his angry friend.

Willingham, however, was not satisfied. Winston testified that several days after their late night, she met with him and told him she had found a condom at the top of the wastebasket in her bathroom with blood on it. Willingham told Winston that KF had been menstruating on the evening in question and that she thought he might have used the condom with KF. Winston testified, “I was shaken. She made it very clear that ... she was accusing me of rape.”

Winston had no memory of having intercourse with anyone, but when Willingham confronted him, he wondered if he could have done something while in a blackout state. Frightened, he testified that he checked his wallet, and the single condom he always carried was still there. He told Willingham the condom at her apartment wasn’t his. She told him she had already given it to the police. Eventually, the condom was tested by law enforcement. There was both male and female DNA on it. The DNA from the woman was *not* that of KF but Willingham herself. Law enforcement did not test to see whether Winston was the source of the male DNA. Winston’s lawyer *did*. The male DNA did not belong to Brandon Winston.