

EXHIBIT C

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

3 - - - - - X

4 EDWARD CARRINGTON, et als., :

5 Plaintiffs, : Civil Action No.

6 v. : 1:08-cv-119

7 DUKE UNIVERSITY, et als., :

8 Defendants. :

9 - AND - :

10 RYAN McFADYEN, et als., :

11 Plaintiffs, : Civil Action No.

12 v. : 1:07-CV-00953

13 DUKE UNIVERSITY, et als., :

14 Defendants. :

15 - - - - - X

16 Durham, North Carolina

17 Wednesday, February 8, 2012

18 Deposition of MATTHEW DRUMMOND, a witness

19 herein, called for examination by counsel for

20 Plaintiffs in the above-entitled matters, the witness

21 having been duly sworn, taken at the offices of

22 Thomas, Ferguson & Mullins, 119 E. Main St., Durham,

23 North Carolina, at 1:00 p.m. on Wednesday, February

24 8, 2012, and the proceedings being taken down by

25 KAREN K. KIDWELL, Registered Merit Reporter.

1 the Court upheld the subpoena, you'd be ready to go?

2 A. I had the reports, were run.

3 Q. Who ran those reports for you?

4 A. I did.

5 Q. You did it?

6 A. Yes.

7 Q. Okay. Why did you do it?

8 A. I received the subpoena.

9 Q. Okay. Did you tell anyone you were
10 running the reports?

11 A. Duke legal counsel.

12 Q. Okay. Anyone in your office aware of the
13 fact that you were running the reports?

14 A. I don't remember.

15 Q. Okay. Now let's look at the second
16 sentence of this letter. It says, "If you wish to
17 object to the release of these records by the
18 university, your attorney must file a motion to that
19 effect."

20 When you wrote this letter, you understood
21 that the players might decide to hire a lawyer to
22 fight the subpoena, correct?

23 A. Yes.

24 Q. Okay. And when you wrote this letter,
25 your understanding was that the information, the key

1 card information, had not already been released,
2 correct?

3 A. Yes.

4 Q. And if you had known it was released, you
5 wouldn't have written the letter like this, would you
6 have?

7 A. I don't know.

8 Q. You don't know?

9 A. I did not know the information was
10 released, I would not know what would be in the
11 letter. It should be --

12 Q. Well, let's say Mr. Gettliffe had read
13 this letter, and he came in to you and he said,
14 "Matt, you know, I've already released this
15 information," would you have modified the sentence I
16 just read, rather than saying, "If you wish to object
17 to the release," to give the students a heads-up that
18 it had actually already been released?

19 MS. WELLS: Objection.

20 THE WITNESS: Well, we would release it to
21 Duke police. That would not change what would go
22 here.

23 BY MR. THOMPSON:

24 Q. Well, let's say Gettliffe told you, "I
25 gave it to Smith who gave it to Gottlieb. They've

1 a written -- on a verbal request?

2 MS. WELLS: Objection.

3 THE WITNESS: The subpoena was from an
4 outside entity.

5 BY MR. EKSTRAND:

6 Q. Okay. And that -- how many times had an
7 outside entity issued a subpoena to your office prior
8 to this?

9 A. I don't know.

10 Q. No. People have been prosecuted again and
11 again, and the prosecutor got this information again
12 and again, either through Duke police or otherwise,
13 through your office without a subpoena, right?

14 MS. WELLS: Objection.

15 THE WITNESS: I don't know.

16 BY MR. EKSTRAND:

17 Q. You don't know? What do you think the
18 Duke police did with this stuff that you gave them?

19 A. I don't know.

20 Q. You think they were just curious, a
21 passing fancy?

22 A. I don't know. I did not know Duke police
23 had the information.

24 Q. But you knew that Duke police could get it
25 by a verbal request, right?

1 A. Duke police could get it through a request
2 to our office.

3 Q. Yeah, verbal. Just a phone call, that's
4 all it took, right?

5 A. Possibly.

6 Q. Yeah. And it didn't occur to you to ask
7 Mr. Gettliffe, "Didn't you already give this to them?
8 All they had to do was ask?"

9 MS. WELLS: Objection.

10 THE WITNESS: No, because the subpoena was
11 not coming from Duke police. It was from Durham.

12 BY MR. EKSTRAND:

13 Q. Right. It was coming from Mr. Nifong,
14 right?

15 A. It was coming from the State of North
16 Carolina, City of Durham.

17 Q. Mr. Nifong signed it, right?

18 A. Yes.

19 Q. And Mr. Nifong prosecuted cases that Duke
20 police investigate, right?

21 A. I don't know.

22 Q. You don't know?

23 A. (Moving head from side to side.)

24 Q. You think that's important?

25 A. What's important?

1 where did you get that information from?

2 MS. WELLS: Objection. Mr. Drummond, to
3 the extent that the answer to that question would
4 disclose any communications with legal counsel for
5 the purpose of obtaining legal advice, I'm going to
6 instruct you not to answer.

7 BY MR. EKSTRAND:

8 Q. Do you have an answer or are you thinking?

9 A. I don't have an answer.

10 Q. All right. Did you consult with --
11 without identifying the contents of the
12 communication, did you consult with somebody before
13 you gave that answer to Mr. Nifong?

14 MS. WELLS: You may answer that question,
15 Mr. Drummond.

16 THE WITNESS: I don't remember if I
17 consulted with anyone.

18 BY MR. EKSTRAND:

19 Q. Okay. So this response to Mr. Nifong may
20 have just come from your own personal knowledge of
21 what would be required?

22 A. That was knowledge based off of the FERPA
23 guidelines provided by Duke.

24 Q. Okay. Did you look at, look them up or
25 review them before contacting Mr. Nifong back?

1 A. No.

2 Q. Okay. So you were just aware that this
3 requirement existed?

4 A. Yes.

5 Q. Okay. Now in your testimony, you've sort
6 of drawn some kind of a distinction between a Duke
7 police officer and a Durham police officer; is that
8 true?

9 A. There are distinctions, yes.

10 Q. Okay. Well, in particular, with respect
11 to requesting DukeCard data, what are the
12 distinctions between a Duke police officer and a
13 Durham police officer?

14 A. A Duke police officer is considered a
15 university official. Durham police officer is
16 considered an outside, third party entity.

17 Q. And by university official, what do you
18 mean?

19 A. Staff, administrator, that is employed
20 with Duke.

21 Q. So a Duke employee is somebody who could
22 ask for this information?

23 MS. WELLS: Objection.

24 BY MR. EKSTRAND:

25 Q. And get it from your office?