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PERSPECTIVE

Have judges learned nothing?

By Marc Lewis

Here we go again.

Earlier this month, Nolan Bruder of Crescent City pled guilty to drugging and raping his underage sister. Prosecutors sought a six year prison sentence for the crime. But on May 17, a California judge sentenced Bruder to a term of probation, meaning that instead of six years or more in prison, the admitted rapist will likely spend just a few months in jail, if that.

How is this possible? Have California judges learned nothing from the example of Brock Turner?

Let's review the evidence. Bruder pled guilty to raping his 16-year-old sister. In exchange, the prosecution dropped the other charges, which included unlawful intercourse, incest and providing a minor with drugs.

According to the criminal complaint, Bruder dosed his sister with high-potency marijuana "dabs" and repeatedly asked her to have sex. She continually refused until she couldn't refuse any more, and eventually she no longer recognized Bruder as her brother.

That's when he raped her.

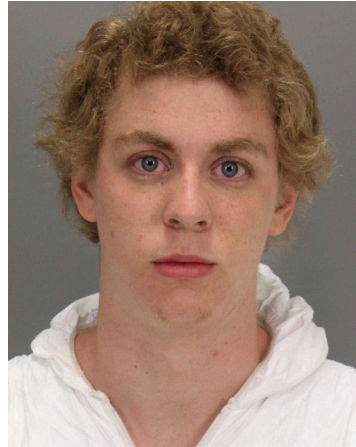
But instead of the six year prison sentence recommended by the prosecution, the judge, William H. Follett, granted probation. In court, Judge Follett said that the "stigma" of the criminal conviction

and mandatory sex offender registration were enough to deter him. Judge Follett also blamed the victim, claiming that she took off her own clothes and was not technically unconscious. As if that lessens the devastating impact of an incestuous rape.

These are, of course, nearly the same facts that led to widespread outrage in the Brock Turner case last year. In that case, Stanford swimmer Turner was convicted of three counts of felony sexual assault. Just as in this case, the victim was intoxicated, prosecutors recommended six years in prison, and the judge ignored the prosecution recommendation and inexplicably sentenced Turner to probation.

Turner's "punishment" led to widespread public criticism of Judge Aaron Persky and sparked an effort to recall him. The California Legislature then passed two bills to establish a mandatory minimum of three years in prison for the sexual assault of an unconscious or intoxicated person. (Though the bills were passed, they were not in effect when Bruder raped his sister, so the mandatory minimum did not apply.)

But despite the widespread outcry following the Turner case and the Legislature's swift reaction, Judge Follett essentially let Bruder off the hook for rape. And the "sentence" imposed reflects the same misogyny and sexism that



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An undated booking photo of Brock Turner, who was convicted of felony sexual assault last year. Turner's punishment led to widespread public criticism of Judge Aaron Persky.

caused a furor after the Turner trial.

So, why has the Bruder case failed to get the same attention as the Turner case? And why has Judge Follett not received the same criticism as Judge Persky? After all, the two cases are nearly identical.

The most obvious explanation is geography and technology. The Turner case, of course, occurred in the heart of Silicon Valley. The public outcry reached a fever pitch when Turner's father wrote to the court, stating that a prison sentence would be a "steep price to pay for 20 minutes of action." Then, the victim's impact statement also went viral.

By contrast, the Bruder case

occurred in Crescent City, the only incorporated city in remote Del Norte County, just south of the Oregon border. Under 10,000 people live in Crescent City, and nearly half of them are inmates in Pelican Bay State Prison. On the other hand, nearly 2 million people live in Santa Clara County, the home of Stanford University.

But the Bruder case must not be ignored. It raises the same disturbing issues of race, gender, and class in the context of sexual abuse. And while judges should be given wide latitude in the sentencing of offenders, the punishment should also reflect both the seriousness of the offense and society's morals. The media, the Legislature, and California voters — especially those in Del Norte County — should give this injustice the attention it deserves and make their voices heard.

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