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Statement of Kelsey Harbert

I've waited three years for the opportunity to speak about the injustice of Cuba Gooding Jr. I had hoped to do so in the context of a trial in which he would be held accountable for the irreparable damage he did to me one summer night in 2019.

Today I was robbed of that chance by a plea deal that never should have been considered, but I am glad to be able to say to you what I couldn't say in court.

For those of you who may not know, Cuba Gooding Jr. forcibly grabbed, squeezed, and fondled my breast within the first 10 seconds of meeting me at the Magic Hour Club in Manhattan. I reported him that night, and he was arrested 3 days later.

After that, in addition to the problems I dealt with inside the system, I had to endure 3 years of humiliation from his team.

Cuba made a statement attacking my mental health in the press, claiming I had a "warped mental state."

His team then filed a motion with the court to question me about my breast size on the stand, claiming that insecurity around my breast size might have led me to believe I was sexual assaulted.

Early on, the system began making special accommodations for him. Every time I questioned why he was receiving VIP treatment, I was given the same answer - "Because of who he is."

At first, I was told he would be in a sex offender's program, one which has a reputation for being very firm with offenders. Second, I was told he would also be completing a separate alcohol abuse program.

But because of who he is, he was allowed to trade both programs for time with his personal therapist.

Because of who he is, he was allowed to call this informal therapy 'Alcohol and Behavioral Modification Treatment.'

Because of who he is, he has been able to retract his guilty plea 6 months later to erase his criminal record.

According to Cuba's lawyer, Mr. Rothman, the Defense reached out to District Attorney Alvin Bragg personally to cut this deal for Cuba. And this is the same Alvin Bragg who campaigned on ending special treatment for celebrities accused of a crime.

As a victim for whom charges have been filed, each concession was deeply offensive to me. But the one thing I was promised in the end was an apology in

court for what he did to me. And for the opportunity to tell my side in a Victim Impact Statement since I wouldn't get my day in court.

When it came time to make that apology, Cuba Gooding Jr.'s exact words were "I'm sorry if I made anyone *feel* inappropriately touched." I didn't just feel inappropriately touched; I was inappropriately touched. Then when I was giving my Victim Impact Statement, his lawyer interrupted me and stated, "But, what she said happened here for the last twenty minutes, is a product of her imagination in large part, Judge." This statement by Mr. Gooding's attorney was false and undermined the terms of the deal Mr. Gooding made and robbed me of what should have been a safe space to express the toll that being sexually assaulted had taken on me.

Over 30 other women have come forward since I first reported what Mr. Gooding did to me. To date, Cuba Gooding Jr. has been accused of forcibly touching, penetrating, licking, choking, and, in a civil lawsuit, raping a woman.

At what point are we going to take this seriously? When will we decide that this is dangerous behavior? And when is it the court's responsibility to protect the public from someone like him?

The system is supposed to be about *what he did*, not who he is.

Because of what he did,

- I have to worry about a guy's intentions when he talks to me on the bus.
- I have to worry about where a guy's hands are when he squeezes past me in the supermarket.

- I have to be worried about riding the elevator alone with a man because there's nothing shielding me from something going wrong.

Despite the harm to me, Cuba Gooding Jr. walks away from the court a free man without a record. It's like it never happened. Can the same thing be said for the women he did this to? Is it like it never happened to me? His actions tug at my sense of peace every single day. And that's compounded by the fact that this type of behavior seems to be tolerated in society.

This is the 'grab them by the pussy' culture we live in where men like Cuba Gooding Jr. are a symptom of generations of discounting the irreparable harm of forcibly touching women without their consent. Where forcible touching isn't taken seriously. Where women can be treated like a party favor. Then if they speak out, proponents of that culture frame them as tattletales trying to 'ruin the fun' in the club.

And there's an unmistakable tone, an unspoken question, "Is that *all* he did?"

In my case, everything went right. I had video evidence and eyewitnesses. And STILL that wasn't enough. What does that mean for the next girl he does this to? What if she doesn't have a video? What if she's not in a bar full of people? In Cuba's case, they've even erased his criminal record. He's back to being 'a public figure with no priors'. So that next woman might have it harder than I do.

What bothers me too, is that it's not just 'because of who he is' in New York City. I was told by prosecutors that in addition to the 30 that came forward in New York City, there were a number of women that reported it to the D.A. in Los

Angeles and other states. But the Los Angeles D.A. has declined to look into it. Where is the protection for women if this happens again? What system is supposed to take care of us?

The message he got today is that ‘because of who he is,’ the rules are different for him. And according to those rules, there’s nothing to stop him from continuing this allegedly decades long pattern of behavior if he decides to forcibly touch a woman again without her consent.

I want him to be accountable for the consequences of his actions. But because of who he is, I am the one who will have to live with those consequences.

We may never know why Manhattan D.A. Alvin Bragg agreed to this deal. But I can’t help but wonder if the answer to that question is the same one I’ve been given these past three years, “because of who he is.”

Kelsey Harbert

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