

# Lyle Howe trial goes to jury

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Published May 28, 2014 - 12:04pm

Last Updated May 29, 2014 - 6:26am



Lyle Howe, accused of sexual assault and administering a stupefying drug, is shown in Supreme Court in Halifax earlier this month. (CHRISTIAN LAFORCE / Staff)

The defence says it's a case about regret. The Crown says it's a contrast between evidence and a story.

Those were the positions of the two sides in the Lyle Howe case as they made their final submissions to the jury Wednesday.

Howe, 29, is accused of drugging and sexually assaulting a woman on March 20, 2011, in Halifax.

"This case is about regret and it's about bad behaviour," defence lawyer Mike Taylor said.

The complainant "regrets something she got involved in. She had to explain things to herself and her friends," Taylor said.

"I'm sure Mr. Howe regrets putting himself in this situation."

Taylor said the question is whether the sexual encounter Howe had with the woman was a crime, not whether it's morally repugnant. Howe, a Halifax lawyer, was in a long-term relationship at the time.

**BLOG REPLAY:** [Wednesday's closing arguments \(#blog\)](#)

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Taylor said a recurring theme in the woman's testimony about the night of the alleged assault and the days after was that she didn't recall details.

"It makes it difficult for you to rely on that evidence," he said.

The woman's text to Howe on the morning after their encounter, in which she said "I don't remember anything after you left," was "extremely telling," Taylor said.

The woman had testified that she doesn't remember anything beyond kissing Howe about 10 minutes after he arrived at her apartment.

Taylor said that the woman had no apparent concerns when the talk at a bar earlier that night had turned to oral sex and whether it was considered cheating. He said it was odd that she would invite Howe and his friend to her apartment when she had testified that she didn't want to. Taylor suggested that when she initially said no at the bar, it was because she was waiting for her roommate to leave.

He said there were no indications of impairment in the woman or evidence that she wasn't able to consent to sex. Taylor suggested she made up the story of being drugged and assaulted because her roommate was upset and asked what had happened when he saw condoms throughout the apartment.

"She says she doesn't remember, and she's off from there."

He said the tone of her texts to friends in the next few days "bely the turmoil" she said she was in, and the number of people she told didn't seem to mesh with her testimony that she was ashamed and didn't want people to know what happened.

"Once you start to tell a story like this, it gains a lot of momentum," Taylor said. "Then it's hard to put the brakes on."

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He said Howe admitted to things in his testimony that made him look bad.

But Crown attorney Dan Rideout told jurors it was Howe who was spinning a story, and that the woman's evidence should be accepted.

Rideout said jurors should focus on the fact that she said she didn't remember in the text to Howe the morning after the incident.

"She's in shock the next day. She's trying to piece things together."

He said jurors' common sense will be important in considering the case.

"The totality of the evidence points to his guilt," Rideout said, adding that if jurors believe the woman did black out, "you start rejecting his story pretty quick."

He suggested that the woman wouldn't subject herself to an invasive sexual assault exam if she knew what had happened and was a willing participant.

Rideout said if the woman was fine and not impaired, as Howe testified, she would have cleaned up the condoms because she would know they would upset her roommate.

He said the woman was forthright in her testimony, and if she said she didn't remember something, it was because she didn't. He said she admitted mistake when they were pointed out to her.

Rideout said her testimony contrasted with Howe's, which he called argumentative.

"Instead of answering a question, he would point to something else that supported what he was saying," he said, adding that Howe answered questions with questions.

"His story was about coincidence, falsehood and explaining things away."

Rideout said Howe's account that the woman didn't seem impaired didn't mesh with her memory loss and the evidence of her roommate about her incoherent condition in the middle of the night.

"She goes from slightly buzzed to blacked out in less than an hour. What accounts for that?"

He said jurors can make the inference that there was a fast-disappearing, stupefying substance given to her.

The jury will return to court Friday morning, when they will receive their instructions from Chief Justice Joseph Kennedy and then begin deliberations.

Wednesday May 28, 2014

1:00PM ADT

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