

WILL CYRUS VANCE TURN HIS HEAD & WALK AWAY FROM DSK?

You get abruptly educated, and extremely jaded, as an attorney traversing the halls of justice in the criminal defense bar, especially on sex cases, but the much ballyhooed, and with special glee on the left, case against Dominique Strauss-Kahn (DSK) has, from the get go, never set right with me. Turns out that may have been well justified, as the New York Times relates in a startling report tonight:

The sexual assault case against Dominique Strauss-Kahn is on the verge of collapse as investigators have uncovered major holes in the credibility of the housekeeper who charged that he attacked her in his Manhattan hotel suite in May, according to two well-placed law enforcement officials.

Although forensic tests found unambiguous evidence of a sexual encounter between Mr. Strauss-Kahn, a French politician, and the woman, prosecutors do not believe much of what the accuser has told them about the circumstances or about herself.

Since her initial allegation on May 14, the accuser has repeatedly lied, one of the law enforcement officials said.

Well hello there Clarice, that would seem to be a bit of a problem now wouldn't it? Say what you will, this is a dead nuts killer set of events for the prosecution, and it was apparently still the least brutal limited hangout they could manage. Ouch. I would read this to say the state has completely lost any and all confidence in their complaining witness – the “victim” – because this type of release simply does not get made without that, whether it is a stated part

of the release or not.

Rest assured, if this is being run by the NYT, it was almost certainly a sanctioned release. The key here is this seems to be actually evidentiary realizations the cops and prosecutors came to realize on their own, either independent of, or with little prompting from, DSK's defense team. Hard to tell yet, but one thing is sure, the state does not seem to take issue with the gaping infirmities. That tells you about all you need to know.

Prosecutors and defense lawyers will return to State Supreme Court in Manhattan on Friday morning, when Justice Michael J. Obus is expected to consider easing the extraordinary bail conditions that he imposed on Mr. Strauss-Kahn in the days after he was charged.

Indeed, Mr. Strauss-Kahn could be released on his own recognizance, and freed from house arrest, reflecting the likelihood that the serious charges against him will not be sustained. The district attorney's office may try to require Mr. Strauss-Kahn to plead guilty to a misdemeanor, but his lawyers are likely to contest such a move.

Uh huh. The state's knee jerk reaction is try to jam DSK into some happy horsemanure misdemeanor to save face (like the DOJ did with Thomas Drake) and to insulate themselves from liability. It is just what they do in these circumstances, and if that isn't working, they will try to extract a hold harmless agreement in return for dismissal; even though those are patently unconscionable and unenforceable. Again, it is just what they do. Quite frankly, I don't think the state would have any exposure at all for unreasonableness if they had not have gone so aggressively Michael Nifong with the perp walk and press statements about how certain they were of their case and how clean their

victim was. That was ill advised and unnecessary, even if they had the facts down cold and were right, which clearly was very much not the case.

So, if the evidence set and victim is as infirm as even the state is clearly now admitting, the proper thing is not to try to hold out for some face saving junk charge, but to man up, dismiss the charges and walk away. Interestingly enough, and the timing could not be more fascinating or titillating, it is also announced tonight that Cyrus Vance and the Manhattan District Attorney's Office is losing their top sex crimes chief. Yes, Lisa Friel is turning her head and walking away:

Lisa Friel, the chief of the Manhattan district attorney's sex crimes unit for nearly a decade, is leaving that post, according to a memorandum circulated in the office on Wednesday.

The announcement comes at a pivotal moment, as the office handles one of its biggest sex-crimes prosecutions ever: the case against Dominique Strauss-Kahn, the former managing director of the International Monetary Fund.

After nearly three decades in the district attorney's office, "Lisa Friel has informed us of her decision to explore other professional opportunities outside the office," said an e-mail to prosecutors in the office from Karen Friedman Agnifilo, the chief of the trial division.

There is no way to know how, or to what extent, the two seismic events are related; but the timing and linkage between a massive fail in the sex crimes unit being admitted, and the long time head of that department suddenly deciding to move on, at the same exact moment, simply cannot be ignored.

So, if the chattering classes previously thought

it fantastical to ponder how DSK came to be in the position he was (above and beyond the obvious fact his history played straight into the presumptions made against him), it sure is time to go there now.

Here are a few random thoughts and points to ruminate on: Funny how this all comes out the day after Christine Lagarde gets the IMF job that previously belonged to DSK. The same DSK who was the chief defender of Greece and other struggling counties in the battle for their soul with the EU and IMF; all as Greece is getting stripped and gutted to please the banks, elite and rich. So there is that. Then there is also the fact DSK was the presumptive next leader in France.

Or maybe the victim simply was looking for a mark, but for more traditional goals such as financial reward rather than international finance and/or political intrigue. This is also quite possible. Heck, maybe this is all a wild ruse and things were as originally depicted; but I would not bet one red cent on that chance. No, there is a story here, and it will be fascinating to see it unfold, to whatever extent we do.

I do not necessarily have an opinion on what lies beneath this mess – there were simply a boatload of potential enemies and scenarios that could be credible against DSK, but I had a queasy feeling about the gig from the get go. Sex cases are fraught with all kinds of emotionally charged tangents and aspects, and violence against women is no joke and not to be trifled with. By the same token, if you are deep enough and long enough in the criminal bar (to a related extent the DR/divorce bar as well), you also gain a very healthy respect for the way they are wielded as disingenuous false bludgeons far too often.

It is a fine line fraught with danger to analyze. We still do not know how the DSK case will play out, but there was something queasy about it from the start; sometimes you just

smell it. I may still be shown to be a dunce in that regard, but the reports tonight do not surprise me in the least.