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RARE PLEA RESULTS IN ADULTERY SENTENCE MAN WAS CHARGED WITH RAPING HIS SISTER-IN-LAW

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A 25-year-old man who admitted having sex with a sister-in-law was sentenced Monday to one year's probation for adultery.

Yes, adultery is against the law in Michigan. It's a felony punishable by up to four years in prison.

But the case centers less on marital infidelity than resolving the sister-in-law's complaint that her brother-in-law raped her while she slept on her couch in October 1999. Because the Free Press does not identify victims of sexual assault, their names are not being published. The man, who lives in St. Clair, pleaded guilty in September to the adultery charge in order to avoid a conviction for criminal sexual conduct, which would have caused his name to be placed on the state's registry of sex offenders.

The adultery conviction means he will not be listed on the registry, said his attorney, Scott Weinberg.

The man has denied raping his sister-in-law, Weinberg said. But, the lawyer said, "there's a statute on the books that does forbid adultery in several complicated ways. He did fit under that."

Adultery is a crime that is hardly ever prosecuted.

"It's my understanding that this is the first conviction for adultery in modern times" in Michigan, Weinberg said. "It comes from very old common law on property crimes which considered women to be men's property and chattel."

Under the statute, prosecution for adultery can only take place on complaint of the husband or wife who is the victim of their spouse's infidelity. The statute also seems to say that when adultery occurs between a married woman and an unmarried man, only the man can be charged. There is a one-year statute of limitations.

When St. Clair County Circuit Judge James Adair on Monday asked the man to apologize to the victim, he apologized to his brother, Weinberg said.

That outraged an advocate for women in domestic violence situations.

"The real victim is the person whom he perpetrated the sexual act on and she's been totally left out of the equation," said Lore Rogers, a lawyer with the Domestic Violence Project in Ann Arbor.

But St. Clair County Assistant Prosecutor Joseph McCarthy Jr. said the victim agreed to the plea because her now-estranged husband was prepared to testify that his brother was having an affair with her.

"To her, it was worth it to have a sure conviction," McCarthy said. "These kinds of cases are not sure-fire winners."

According to St. Clair police, the woman went to a hospital at 1:20 a.m. on Oct. 13, 1999, saying she had been raped by her brother-in-law.

St. Clair Police Chief Donald Barnum said the woman told police she fell asleep on the couch in her St. Clair home around 9:30 p.m. while watching

television. A little later, she awoke to find a person she thought was her husband was having sex with her. Then she saw it was her brother-in-law. Officers were questioning the woman in her home around 2:30 a.m. when her husband came home from work. When the husband heard the allegation, he began arguing with his wife and officers had to separate them, Barnum said.

Barnum said the brother-in-law at first denied any sexual contact, then said the sex was consensual.

The woman and her husband, who was convicted of misdemeanor domestic violence on June 1, are now divorcing, officials said.

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ADULTERY

SENTENCE

UNUSUAL

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