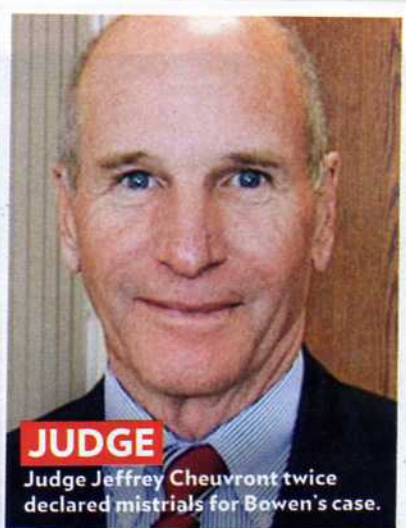




**ACCUSED**

Pamir Safi, now 35, says he had consensual sex with Bowen.



**JUDGE**

Judge Jeffrey Cheuvront twice declared mistrials for Bowen's case.

Cheuvront (at defense attorney Clarence Mock's request) made a startling decision: Bowen could not use the words "rape" or "sexual assault" while testifying, nor could she say she thought Safi drugged her. Neither could the police, the prosecutor nor other witnesses—including two other women who alleged they woke to find Safi raping them. And the jury couldn't know about any of the language restrictions. "I was stunned," says Bowen. "I came to the justice system for help."

On Oct. 17 the U.S. Supreme Court will decide whether or not to hear Bowen's case. Her attorney Wendy Murphy cited similar cases across the country to strengthen the argument that word banning is a national concern. However it's Bowen's case that unleashed a firestorm of outrage. At one of her trials protesters showed up outside the courthouse and across the country with their mouths taped shut. One federal appeals court judge who reviewed the case noted, "There is something profoundly disturbing about a judge telling a victim she can't say she was raped when testifying as a victim in a criminal case."

Yet Judge Cheuvront was relying on a well-founded legal principle that allows judges to prohibit words that could be unfairly prejudicial to a defendant. (All states have similar laws.) The judge's reasoning: Since Safi (who declined to comment for this story) said Bowen as well as the other two alleged victims were willing

“  
To deny victims  
the right to say they  
were victimized  
is pure Alice  
in Wonderland”

—JOSHUA MARQUIS, NATIONAL  
DISTRICT ATTORNEYS ASSOCIATION


people the connotation of the word 'rape' involves a vicious and violent assault involving the use of force" and thus it would be "inflammatory" to use it. (Citing the Code of Judicial Conduct, Judge Cheuvront refused to comment.) Such language restrictions are a growing concern, says Joshua Marquis, a spokesman for the National District Attorneys Associa-

tion. "It's like a fungus," he says. "It's spreading. In California and Utah prosecutors are barred from using the word 'victim' at trial." But defense attorneys say they're just leveling the playing field for their clients. "It's the defendant's trial and the judge's courtroom," says Jack King, a spokesman for the National Association of Criminal Defense Lawyers. "And sometimes the First Amendment gets trumped."

But the effect has been profound on Bowen, who was diagnosed with post-traumatic stress disorder because of the alleged rape and went through years of counseling. She says her husband, Kyle Flynn, 26, who is in the U.S. Army's Honor Guard, has been "incredibly supportive." She is a speaker for the Rape, Abuse and Incest National Network and other sexual assault groups, where she talks about her experience to law enforcement and college students. Says Bowen: "It's my only way of fighting back." In January Lancaster County attorney Gary Lacey announced he was not pursuing a third trial (the two previous ones were mistrials) because the judge had barred the testimony of two other alleged victims of Safi, who now lives in Omaha and works odd jobs. So Bowen's only chance for another trial is in the hands of the U.S. Supreme Court. "All I want to do is to be able to say in a courtroom that that man raped me," says Bowen, who works in government relations in Washington, D.C. "It's the truth." ●



Protesters show support for Bowen in July 2007.



Bowen on the steps of the U.S. Supreme Court, which will decide whether or not to hear her case Oct. 17.

"I want my case to serve as a huge red flag," she says. "The criminal justice system is broken."

**T**ory Bowen opened her eyes. She was naked in bed and had no idea how she'd gotten there. The last thing she remembered was being out with her friends the night before. But what happened next, she says, is permanently seared in her mind. A man she says she'd never seen before was raping her. "Stop! Stop!" she says she told him. He did. He told her they'd had sex the night before as well—and that she'd consented, none of which she remembered. Says Bowen, a 21-year-old college senior at the time: "I felt like I'd woken up in a nightmare."

In her view the nightmare didn't end there. Police did arrest and charge Pamir Safi, then 31, with sexual assault. But when the case came to trial in Lincoln, Neb., two years later in 2006, Lancaster County District Judge Jeffrey

# SHE COULDN'T CALL IT 'RAPE'

Tory Bowen says she was sexually assaulted. Yet once her case came to trial, the judge barred her from using words like 'rape' and 'sexual assault' to protect the rights of the man she accused. BY NICOLE WEISENSEE EGAN