

## **GUILTY...Sort of Senate bad boy beats felony charges**

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Queens State Senator Hiram Monserrate beat the top charge of felony assault, but a Queens judge found him guilty of a lesser misdemeanor charge that will allow him to remain in Albany.

Queens Judge William Erlbaum handed down the verdict in Monserrate's assault trial on Thursday, October 15, in front of a packed Kew Gardens courtroom filled with Monserrate supporters and detractors.

"A terrible accident occurred to my girlfriend Karla Giraldo – a person that I love – and I have to live with that forever," Monserrate told reporters after the verdict. "There were no winners here today."

After nearly three weeks and 1,000 pages of testimony, Judge William Erlbaum found Monserrate not guilty on both felony charges and one misdemeanor charge. Erlbaum did find Monserrate guilty of the sixth count – a misdemeanor assault that recklessly causes physical injury.

Queens District Attorney Richard Brown said he cannot quarrel with the decision of the court and stressed that it found that the defendant physically abused his victim and engaged in an act of domestic violence.

"The decision represents a victory for those of us who seek to prevent family violence and abuse – and to punish those who engage in such conduct," Brown said in a statement. "And it more than justifies our prosecution of this case in spite of the victim's refusal to assist – or in any wise cooperate – with us in the prosecution."

The assault charge comes with a maximum one year prison term, but it is unclear whether he will serve any jail time. Erlbaum scheduled sentencing for Friday, December 4.

By law, Monserrate is also allowed to retain his State Senate seat since he was not convicted of any felonies.

Last month, Monserrate waived his right to a jury trial and opted for a bench trial where Erlbaum would ultimately determine his fate.

When the news reached Monserrate's western Queens community, constituents like Enrique "Luis" Lugo, a community activist who works against domestic violence, said he was satisfied with the verdict.

"I never saw him violent or cursing," Lugo said. "Whatever happened, happened."

Meanwhile, Queens City Councilmember Eric Gioia quickly weighed in on the verdict and said Monserrate should be removed from office.

"There is no room in government or in the Democratic Party for people who commit such heinous crimes against women," Gioia said in a statement. "Hiram Monserrate must be swiftly removed from office. Elected officials should rightfully be held to a higher standard, and New Yorkers living in Corona, Elmhurst, East Elmhurst and Jackson Heights deserve better representation than a convicted perpetrator of domestic violence."

Sonia Ossorio, the President of the National Organization for Women New York City, said the verdict was disappointing for anyone who saw the videotape and listened to the testimonies of the doctors. However, she was impressed with the prosecution's handling of the case.

"I think the silver lining in this case is that the Queens District Attorney's office really prioritized a domestic violence case and prosecuted this aggressively and that should be the standard everywhere," Ossorio said.

Two hours before Erlbaum delivered the verdict, supporters of Monserrate were heading into the courtroom to stand behind the Senator.

"He works hard for the community, his neighborhood and his family," said Blanca Borja, who lives in Jackson Heights and has known Monserrate since 2000. "He's a good man, never aggressive and his relationship problems are the same problems that everyone has."

Ralph Rivera, a Jackson Heights resident who came to the courtroom to hear the verdict, said there were holes in the prosecution's case and the only two parties in the room the night of the incident said it was an accident.

"This is a lover's quarrel, nobody else was in the room," Rivera said.

Monserrate was arrested for assault on his girlfriend Karla Giraldo on December 19, 2008, following an incident in which Giraldo was slashed in the face with a piece of glass. Monserrate took Giraldo to Long Island Jewish (LIJ) Hospital that night where she received between 20 and 40 stitches to the laceration on her face. During the trial, emergency room doctors testified that Giraldo told them early that morning that Monserrate struck her with the piece of glass during the fight.

However, less than 24 hours after the incident took place that December night, Giraldo signed an affidavit saying what happened was an accident – something that Monserrate has maintained since the beginning. Joseph Tacopina, Monserrate's lead defense attorney, made the case at trial that Monserrate was bringing an intoxicated Giraldo a glass of water in bed when he stumbled, and the glass struck Giraldo.

Meanwhile, the prosecution led by Assistant District Attorney Scott Kessler called a variety of witnesses including the doctors on duty at the hospital the night of the incident, police officers and a downstairs neighbor. Kessler painted an image of Monserrate as an enraged man who, after finding another man's 2007 Police Benevolence Association (PBA) card in Giraldo's possession, wanted to exert power and control over her.

The three-week trial, which was highlighted by an explosive video of Monserrate dragging Giraldo out of his Jackson Heights apartment and Giraldo fleeing the witness stand after seeing that video, has garnered significant attention both in Queens and throughout New York State.

During closing arguments on Tuesday, October 13, Tacopina reminded Erlbaum that Giraldo herself said in court that "it was an accident and that he was doing what he was supposed to."

"There is no victim saying she was victimized," said Tacopina. "You have to find reasonable doubt."