

SPORTS

1B NEWS SENTINEL » WEDNESDAY, JUNE 7, 2017

KNOXNEWS.COM

WR Smith's charges dropped

Vol's roommate urged prosecutors to dismiss case

DON JACOBS

USA TODAY NETWORK - TENNESSEE

University of Tennessee wide receiver Josh Smith caught a break Tuesday when authorities announced the pending dismissal of a domestic assault charge against him.

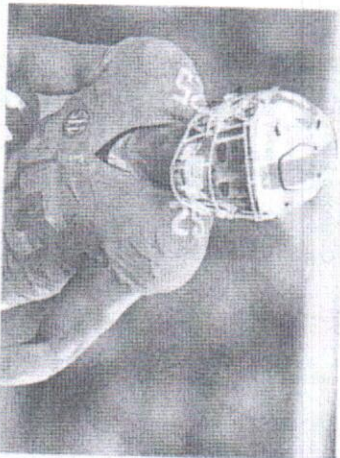
At the urging of the alleged victim, Kennedy James Foster, 22, prosecutors agreed to allow the May 6 charge to be dropped as part of an agreed order, according to Knox County District Attorney General Charne Allen. Under the agree-

ment, Smith did not enter a guilty plea to the charge.

Smith, 23, has to perform 40 hours of community service and pay \$334.25 in court costs to put the incident behind him. On July 7, Knox County General Sessions Court Judge Tony W. Stansberry will dismiss the charge upon seeing proof that Smith met his obligations.

The community service, said Smith's attorney Keith Stewart, could be with "a church, a soup kitchen or any non-profit

See SMITH, Page 3B



CATTIE MCKENKIN/NEWS SENTINEL
Tennessee wide receiver Josh Smith has been ordered by a court to 40 hours of community service.

"I'm convinced that if Josh hadn't gone to the hospital to check on his friend's injuries, he never would have been charged. This kid is a role model. Sometimes doing the right thing is the hard thing."

KEITH STEWART
JOSH SMITH'S ATTORNEY

Smith

Continued from Page 1B

organization. "The organization benefiting from Smith's service will document the time in a letter to the judge.

Stewart said when Stansberry dismisses the domestic assault charge, he can file a petition with the court to have the records expunged. Once expunged, all public records of the incident will be removed from court files.

In addition to the criminal charge, Foster also has dropped plans to pursue a civil lawsuit against Smith.

"It's ended," Stewart said. "It's been dropped."

Foster's attorney George Underwood Jr. had notified Smith of plans to file a \$3 million lawsuit against him if he didn't settle out of court.

"Kennedy made the decision to drop everything," Underwood said Tuesday. "He's grown and he's the client."

Asked about compensation for medical bills, Underwood said, "That's a good question. But I'm not going beyond my initial statement."

Foster entered Stansberry's court, sat in the audience section for about 30 min-

utes and left. The case wasn't officially called before the judge. All the details between prosecutors and Stewart were agreed upon in private discussions.

Smith was in the courtroom about 20 minutes. He sat in the audience section accompanied by his parents. They declined comment as they left the City-County Building.

Stewart explained the state law regarding domestic violence "is based on proximity" and not relationships.

"It would apply to brothers and sisters, husbands and wives, boyfriends and girlfriends," he said. "It's designed to provide separation for the parties."

Smith has been free on \$2,000 bond since his arrest after a night of consuming alcoholic beverages with Foster that ended in a scuffle and a trip to a hospital.

Stewart said after the roommates ended the physical battle, Smith called his parents because he was concerned about Foster's injuries. Records show Foster's face "to be severely damaged."

His face was bloodied, his left eye black and swollen and swelling was noted on his lips, nose and the bridge of his nose.

Smith's parents came to the house and convinced the reluctant Foster to be examined at the University of Tennessee Medical Center, Stewart said. They drove Foster to the hospital. Smith's

brother drove Smith to the hospital.

As required by law, medical officials alerted law enforcement of Foster's injuries. Foster and Smith gave police disjointed, unclear recollections.

"I'm convinced that if Josh hadn't gone to the hospital to check on his friend's injuries, he never would have been charged," Stewart said.

"This kid is a role model," the attorney said. "Sometimes doing the right thing is the hard thing."

The scuffle occurred at the ranch-style home on Crosby Lane shared by Smith, Foster and Malcom X. Stokes. Stewart described Smith and Foster as longtime friends. They had been living in the home since July 2016, records state.

Records show the fistcuffs, wrestling and kicking among the trio started sometime after 10 p.m. The first round of the tussle was between Foster and Smith.

Foster had retreated to the bathroom of his bedroom after apparently feeling the effects of his consumption. Foster told authorities Smith "was really worried about me" and forced his way into the locked bedroom, records show.

Foster said he pushed Smith and the two began fighting. Authorities noted Foster's memory was fuzzy on details about how many blows were landed or

even how the encounter ended.

After Smith and Foster disengaged, Foster and Stokes somehow began fighting. Foster stated in a May 8 application for an order of protection against Stokes that Stokes refused to leave Foster's room after Smith and Foster had separated.

"I asked Malcoln nicely to please leave my room multiple times and Malcoln would not," Foster stated in the court document. Foster said as he "tried to guide Malcoln out of my room," Stokes punched him.

"I was then put on the floor and Malcoln and Josh took turns hitting me," Foster wrote.

Smith told authorities he twice kicked Foster in the face as Foster lie on the floor when trying to break up the altercation between Stokes and Foster.

Stokes was not charged with a criminal offense. Foster on June 1 asked the Fourth Circuit Court to drop the request for an order of protection.

While Stokes and Foster are free to associate with each other, Smith is still forbidden to be around Foster. As a condition of his bond, Smith was ordered to stay away from Foster. Prosecutors said that condition remains in force until the domestic assault charge is dismissed July 7.

6-7-17