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Prosecutors Broke Law in Agreement Not to Prosecute Jeffrey Epstein, Judge Rules

By **Patricia Mazzei**

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MIAMI — Prosecutors led by Alexander R. Acosta, who is now the secretary of labor, violated federal law when they failed to tell victims about an agreement not to prosecute Jeffrey E. Epstein, a wealthy New York financier accused of molesting dozens of underage girls, a federal judge ruled on Thursday.

The agreement not to pursue federal sex trafficking charges, negotiated in secret while prosecutors told victims that a case against Mr. Epstein was still possible, violated the federal Crime Victims' Rights Act, ruled Judge Kenneth A. Marra of Federal District Court in West Palm Beach, Fla. He gave the government and the two victims who sued 15 days to discuss what remedy should apply in the case.

Federal prosecutors had initially drafted a 53-page indictment against Mr. Epstein, but under the deal negotiated in 2008, he pleaded guilty to lesser state charges of soliciting a minor for prostitution and served 13 months at the Palm Beach County Stockade. While there, Mr. Epstein was allowed to leave custody and work out of his office six days a week.

The court's ruling on Thursday could nullify the non-prosecution agreement and subject Mr. Epstein and any co-conspirators in the case to new federal charges, said Jack Scarola, a lawyer for the two victims who challenged the agreement.

But even if the deal is set aside, prosecutors could draft a new, similar agreement, this time with full disclosure to the victims, Mr. Scarola said.

Mr. Epstein's accusers have sought justice for years. Interest in the case was renewed in the #MeToo era, after some women publicly detailed Mr. Epstein's assaults in a report published by The Miami Herald last year. The Justice Department said earlier this month that it had opened an investigation into potential professional misconduct by prosecutors who negotiated Mr. Epstein's plea deal.

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Mr. Acosta was the United States attorney in Miami at the time the agreement was negotiated. Mr. Epstein's accusers were mostly teenage girls at the time of the abuse; because prosecutors did not notify them about the deal in advance, they were unable to object before it went into effect.

In his ruling, Judge Marra called it "particularly problematic" that the government had concealed the existence of the 2008 agreement and misled the victims "to believe that federal prosecution was still a possibility."

"When the government gives information to victims, it cannot be misleading," he wrote.

Investigators found that from 1999 to 2005, Mr. Epstein, a former hedge fund manager with powerful friends, including President Trump and former President Bill Clinton, lured girls as young as 14 or 15 years old into his mansions in Palm Beach, New York and the Virgin Islands. He paid them cash to engage in nude massages, masturbation and oral sex. In some instances, he asked girls to recruit other girls into his sex ring, the accusers told police.

In a statement responding to the court ruling on Thursday, a spokeswoman for the Labor Department said the decisions made by Mr. Acosta's prosecutors had been defended by the Justice Department for more than a decade "in litigation across three administrations and several attorneys general."

"The office's decisions were approved by departmental leadership and followed departmental protocols," the statement added.

A spokeswoman for United States attorney's office in Miami declined to comment.

Fresh outrage over the case in recent months has prompted congressional inquiries and a digital advertising campaign from Allied Progress, a progressive group that is urging the Senate to authorize an investigation by the Justice Department's inspector general. The current Justice Department investigation, announced earlier this month in response to requests by Senator Ben Sasse of Nebraska, is led by the department's Office of Professional Responsibility.

The two victims who sued to challenge the non-prosecution agreement are identified in court papers as "Jane Doe 1" and "Jane Doe 2," though The Herald has identified Jane Doe 1 as [REDACTED]. The women's lawyer, Bradley J. Edwards, settled a separate lawsuit against Mr. Epstein in state court in December, days after the Herald report was published. As part of that settlement, Mr. Epstein said in a statement delivered by one of his lawyers that he apologized for wrongfully suing Mr. Edwards in an attempt to hurt his reputation and stop him from pursuing the current case based on the federal Crime Victims' Rights Act.

Mr. Edwards did not immediately respond to phone or email requests for comment.

Mr. Scarola said several other aspects of the case remain to be decided, but the ruling on Thursday was important for the victims.

“We’ve been waiting for a long time,” he said. “It is one significant step in the right direction, though we still have a ways to go.”

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