

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS)
Sent: Wednesday, December 19, 2007 12:56 PM
To: Acosta, Alex (USAFLS)
Cc: Sloman, Jeff (USAFLS); Leclainche, Janice (USAFLS)
Subject: Issue raised by Epstein's defense team

On Friday, Mr. Epstein's defense team argued for the first time that the state charge contained in the Non-Prosecution Agreement does not apply to the facts of his case. As an ethical matter, the Office does not want a defendant to plead guilty to a crime that he did not commit; however, we are not experts in the interpretation of the Florida Criminal Code, so we look to you for guidance. To assist, I have listed the statute below and summarize the arguments of Mr. Epstein's attorneys. I also have included the factual proffer that Ms. Belohlavek requested so you can determine whether, in your opinion, there is a sufficient factual basis for a plea.

Fl. Stat. 796.03 states: "A person who procures for prostitution, or causes to be prostituted, any person who is under the age of 18 years commits a felony of the second degree . . ."

Fl. Stat. 777.011 states: "Whoever commits any criminal offense against the state, whether felony or misdemeanor, or aids, abets, counsels, hires, or otherwise procures such offense to be committed, and such offense is committed or is attempted to be committed, is a principal in the first degree and may be charged, convicted, and punished as such, whether he or she is or is not actually or constructively present at the commission of such offense."

Mr. Epstein's counsel state that Section 796.03 applies only to procuring a minor to engage in a sex act with a third party, not with the defendant himself, relying on Kobel v. State, 745 So.2d 979, 982 (Fla. 4th DCA 1999), and Register v. State, 715 So.2d 274, 278 (Fla. 1st DCA 1998). They also assert that a commercial motive must be shown.

Please consider whether the following facts are sufficient to prove a violation of Section 796.03, when read in conjunction with Section 777.011:

From at least as early as 2001 through October 2005, the defendant, Jeffrey Epstein, procured at least 30 identified minor females between the ages of 14 and 17 in Palm Beach County to come to his home in Palm Beach to engage in sexual conduct in exchange for money. In particular, the defendant would pay females, including minors, \$200 to recruit other females, including minors, to come to his house to engage in sexual activity. The minors who were procured would receive between \$200 and \$1,000 depending upon the type of sexual activity that they engaged in. Several victims have stated that, when they were unwilling to engage in sexual activity with the defendant, the defendant would ask them to bring other girls instead, and promised to pay them \$200 for each girl whom they brought. Mr. Epstein would regularly ask his recruiters to find new girls for him because he wanted "fresh faces."

In some instances, the defendant did not know the correct age of the minor female who was procured as a prostitute, but in more than half of the instances he did. For example, the defendant purchased gifts for some girls for their 18th birthdays, promised to send them on trips when they turned 18, talked with them about activities at their high schools; and provided transportation for those who could not drive.

The sexual activity the defendant engaged in with the minor females included: requiring minor females to perform topless or nude massages while the defendant masturbated himself; fondling the breasts and vaginas of the minor females; digital penetration of the vaginas of minors; the use of a massaging device on the vaginas of minors; requiring a minor female to pose for nude photographs; requiring minor females to watch others (including the defendant) engage in sexual intercourse; requiring minor females to fondle the breasts of the defendant's adult female companion; performing oral sex on minor females; requiring minor females to perform oral sex on the defendant's adult female companion; and sexual intercourse with minor females. There are four minor females who engaged in vaginal intercourse with the defendant in exchange for money. None of the minor females who was brought to Mr. Epstein's house had ever engaged in prostitution prior to being procured by one of Mr. Epstein's recruiters.

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

Tracking:

2202

08-80736-CV-MARRA

P-014456

EFTA00189244