

Villafana, Ann Marie C. (USAFLS)

From: Jay Lefkowitz [JLefkowitz@kirkland.com]
Sent: Sunday, September 23, 2007 11:58 AM
To: Acosta, Alex (USAFLS)
Subject: Jeffrey Epstein - confidential

Dear Mr. Acosta,

I write to follow up on our conversation on Friday and to ask you to reconsider your decision to require that Mr. Epstein plead guilty to a registerable state charge. It appears that there was a misunderstanding at the meeting I had with Messrs.

Goldberger, Lefcourt,
Please confirm
this with Andy Lourie.

Before the meeting, Mr. Krischer, and Ms. Belohlavek, a sex prosecutor for 13 years, told us that solicitation of a minor, under 796.03, is not a registerable offense. However, as it turned out, 796.03 is a registerable offense and our discussion at the meeting was based on a mistaken assumption. We suggest that Mr. Epstein enter two pleas -- one to the Indictment and a second to a non-registerable charge. This charge could still allow for restitution under chapter 796. Indeed, because the conduct at issue here involves woman under the age of majority, I would suggest that Mr. Epstein plead either to a charge of contributing to the delinquency of a minor, child abuse, and/or agree to a statement of facts that he should have known that women under the age of majority were involved. Such a statement combined with a plea should address any concerns you have regarding Mr. Epstein's accepting responsibility for his conduct.

To require registration based on the facts alleged in this case, however, simply does not make sense.

Registration is a life sentence and the FBI's involvement in this case and their interest in vindication for their efforts cannot justify a punishment harsher than what Mr. Epstein deserves. I ask you to look at the manner in which the state settled the Kutun case last week. As you know, Mr. Kutun was a public figure who had videotaped sexual intercourse with a 16 year old. Consider the following factors, which we believe, indicate that registration is not justified in Mr. Epstein's case:

- Mr. Epstein has no prior criminal record and no previous history of sexual offenses;
- The vast majority of the girls alleged to be involved were over the age of 16, and many were months away from reaching the age of majority;
- There are no allegations of substance or alcohol abuse or that Mr. Epstein provided drugs or alcohol to anyone;
- There is no suggestion that Mr. Epstein is a pedophile;

- There is no history of mental illness or anti-social personality disorder;

There is no evidence of internet luring or trolling seek out girls;

- There is no need to make public the facts of Mr. Epstein's case to protect others since he is already in the public eye and
- Mr. Epstein's employment does not involve or require any contact with minors.

Given these factors, Mr. Epstein does not pose the type of future threat that registration is designed to address. Also, Mr. Epstein's term of incarceration serves as an already harsh punishment. His business will have been terminated, and his reputation destroyed.

If you refuse to agree to allow Mr. Epstein to plead to our proposed state charges, I propose an alternative option that will satisfy your need of vindication of a federal interest and public safety while at that same time address my concerns for Mr. Epstein's safety. The United States Sentencing Guidelines contain extraordinary sentencing enhancements for a defendant who has a prior sex offense conviction and again commits a sexual offense against a minor, USSG 4B1.5. See e.g., United States v. Leach, 491 F.3d 858 (8th Cir. 2007).

Mr. Epstein will

agree, if permitted under the terms of his federal deferred prosecution agreement to resolve his state case with a plea to a non-registerable state sex offense, to stipulate that the state offense in question will, without contest, legally constitute a prior "sexual offense" for purposes of the enhanced recidivist sentencing under USSG 4B1.5 in the event he is ever again determined to have committed a federal sex offense against minors as defined by this guideline.

If you accept this stipulation - and make it part of the deferred prosecution agreement- Mr. Epstein will know, with certitude, that any future violation of any relevant federal law will put him in a federal prison for a substantial part of the rest of his life.

By accepting

this option, you would be substituting the certainty of recidivist sentencing for the humiliation of registration. I hope you will consider this alternative seriously.

Finally, if you are unwilling to accept our proposal, then I would like to discuss with you the language that would be appropriate to allow Mr. Epstein to be charged near the completion of his sentence to a registerable sex offense.

I look forward to hearing from you regarding your decision. I will be working on all other aspects of the final agreement today with [REDACTED]. Please contact me if you have any questions.

Sincerely,

Jay Lefkowitz

Villafana, Ann Marie C. (USAFLS)

From: Acosta, Alex (USAFLS)
Sent: Sunday, September 23, 2007 4:31 PM
To: 'JLefkowitz@kirkland.com'; Lourie, Andrew (USAFLS); V [REDACTED]
Subject: Re: [REDACTED]

Jay -

I do not mean to be difficult, but our negotiations must take place with the AUSAs assigned to the case.

[REDACTED] and [REDACTED] have discussed this matter at length with me and several others in the office several times, including today. They have discretion to proceed as they believe just and appropriate.

I will be out of pocket much of monday on travel. I know that you and others will be here and want to make sure that my absence do not cause any delays. Marie and Andy have authority to proceed as they, in their professional opinion, consider best.

Alex.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Jay Lefkowitz <JLefkowitz@kirkland.com>
To: Acosta, Alex (USAFLS) <AAcosta@usa.doj.gov>
Sent: Sun Sep 23 14:11:57 2007

Confidential communication

[REDACTED] - I got a call from [REDACTED] who said you had rejected our proposal. Does that mean you are not even prepared to have jeffrey commit now to plead to the registerable offense near the end of his 18 month sentence and then be sentenced to 12 month community control for that charge? I thought that was exactly what you proposed friday (although you wanted, but were not able, to do it with some kind of federal charge).

But that still gives you a registerable sex offense, 30 months total, and 18 in jail.

How can that not satisfy you -- while still ensuring that epstein is not unduly endangered in jail?

Can you please let me know - by email if not by phone.

I am disappointed you did not accept our new proposal today, but that is obviously your prerogative. But what I am suggesting now relates only to issues of safety. The charges, the time, and even the fact of registration is all exactly as you are demanding.

Thanks. Jay

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