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Posted: 12:00 a.m. Monday, April 21, 2014

Appeals court rules against sex offender

Attorneys for underage victims seek to overturn ‘sweetheart plea.’

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Jeffrey Epstein

By [Michele Dargan](#)

Daily News Staff Writer

Underage victims of billionaire sex offender Jeffrey Epstein are entitled to correspondence between federal prosecutors and Epstein’s attorneys related to his sweetheart plea deal, a federal appeals court ruled Friday.

This is one more step in the fight by victims' attorneys Brad Edwards and Paul Cassell to overturn the secret deal, which saved Epstein from facing serious federal charges and serving significant prison time.

If Epstein had been found guilty on federal charges, statutory penalties ranged from 10 years to life in prison.

Instead, the sealed pact was part and parcel of Epstein's acceptance of a state plea deal. Epstein pleaded guilty to soliciting a minor for prostitution and soliciting prostitution. He received an 18-month sentence, in a vacant wing of the Palm Beach County Stockade, and was let out on work release six days a week for up to 16 hours a day.

Edwards and Cassell represent Jane Doe No. 1 and Jane Doe No. 2, who say the U.S. Attorney's Office violated the Crime Victims' Rights Act by signing the federal non-prosecution agreement in 2007 without notifying the victims. Their case is pending in U.S. District Court in West Palm Beach.

The 24-page published opinion says U.S. District Judge Kenneth Marra did not err in his June 2013 ruling, when he ordered the correspondence turned over to the victims.

'Sweetheart plea'

"We're now going to get a complete picture of the negotiations that led to this sweetheart plea arrangement," said Cassell, a former federal judge. "We think it will show the part of the discussion to keep the victims in the dark about what was happening. If that's what the correspondence shows, we'll use that as part of our argument for throwing out the plea."

Cassell said he anticipates that 500 pages of correspondence should be released early this week.

The opinion by the three-judge panel ruled against Epstein's arguments that the correspondence was protected by an attorney's work-product privilege. The court says privilege was waived when attorneys voluntarily sent the correspondence to federal prosecutors during negotiations.

"Disclosure of work-product materials to an adversary waives the work-product privilege," the ruling says.

The ruling also dismissed Epstein's claims that a federal rule of evidence protects his plea correspondence. That rule applies only to defendants who withdraw a guilty plea. Because he pleaded guilty, that doesn't apply, the ruling says.

"While respectful of the panel's decision, given issues of overriding importance to the criminal justice system regarding the need for continued confidentiality for communications between defense lawyers and prosecutors, we will be petitioning the court of appeals for further review," said Boston based attorney Martin Weinberg, who represents Epstein.

The U.S. Attorney's Office failed to notify victims prior to striking a non-prosecution agreement with Epstein on Sept. 24, 2007, and didn't tell them of the agreement's existence for at least nine months, the ruling says.

On June 27, 2008, the U.S. Attorney's Office told the victims that Epstein planned to plead guilty to state charges three days later. But federal prosecutors failed to disclose that his pleas to the state charges arose from his federal non-prosecution agreement and would bar federal charges.

Jane Does No. 1 and No. 2, who were, respectively, 12 and 13 at the time they were victimized, received confidential monetary settlements in civil cases.

They are among more than two dozen underage girls who filed lawsuits or settled claims against Epstein. All alleged they were lured to his Palm Beach mansion to give him sexually charged massages and/or sex in exchange for money.

"A well-connected billionaire got away with molesting many girls," Edwards said. "These girls should at least know how and why he was able to get away with these crimes. This ruling will allow us access to the documents

that will provide insight into how that happened. I suspect that the answers revealed by these documents will ultimately allow us to invalidate that agreement and permit prosecution of Mr. Epstein.”

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