

The Palm Beach Post

REAL NEWS STARTS HERE

Jeffrey Epstein's victims left 'empty-handed' again by ruling

By John Pacenti

@jpacenti

Posted Apr 15, 2020 at 6:51 PM

A split federal appeals panel said it regrettably could not help Courtney Wild, who was assaulted by Jeffrey Epstein when she went to Lake Worth Middle School, under the federal Crime Victims' Rights Act.

Even while rebuking federal prosecutors for "appearing to work hand-in-hand" with the lawyers of serial sexual predator Jeffrey Epstein, an appellate court has thwarted a victim's effort to undo the infamous non-prosecution agreement with the now-deceased financier.

>> Post investigation: To the first prosecutors, Epstein's victims were prostitutes

The federal Crime Victims' Rights Act does not apply because federal prosecutors didn't indict Epstein themselves and instead punted the case back to Palm Beach County State Attorney Barry Krischer under the secret deal, a split three-judge panel of the 11th U.S. Circuit Court of Appeals found.

So by scuttling their own 53-page sex trafficking indictment for state solicitation of prostitution charges, federal prosecutors weren't required to inform Epstein's victims they had cut what some called the "deal of the century," the court found.

"It's not the result we like, but it's the result we think the law requires," wrote Judge Kevin Newsom in the majority opinion. Judge Gerald Tjoflat wrote a concurring opinion.

Though Epstein is dead, the deal gave four named co-conspirators and others immunity from prosecution.

The ruling gives tacit approval to the underhanded tactics used by federal prosecutors in the Epstein case, said attorney Bradley Edwards, who represents victim Courtney Wild in her decade-long effort to unravel the nonprosecution agreement.

"The majority's ruling unnecessarily gives a road map for how prosecutors can legally mislead victims of crime," Edwards said.

Judge Frank Hull, the only woman on the appellate panel, wasn't buying what her male colleagues were selling and wrote an impassioned, scathing dissent.

"This case is about how the U.S. prosecutors fell short on Epstein's evil crimes," she wrote.

"Our criminal justice system should safeguard children from sexual exploitation by criminal predators, not re-victimize them. The majority concludes that our court is constrained to leave the victims 'empty-handed.'"

In 2008, Wild hoped to force federal prosecutors to charge Epstein because they violated victims' rights when they cut the secret nonprosecution agreement. The federal law states that victims are at least to be informed of deals made by prosecutors with their assailants.

Epstein pleaded guilty to state charges of soliciting a prostitute and soliciting a minor for prostitution. His victims were not the age of consent. He ended up serving 13 months in jail, a term spent mostly on work release. He was also forced to register as a sex offender.

Wild had appealed a decision by U.S. District Judge Kenneth Marra in West Palm Beach, who found that even though victims' rights were violated he could not throw out the nonprosecution agreement because Epstein was dead.

Epstein, 66, committed suicide last summer in a New York City Jail cell while he awaited trial on new sex trafficking charges.

Wild was 15 years old and still in braces when she was assaulted by Epstein. She and other victims were kept in the dark as federal prosecutors shelved the trafficking indictment and forged the non-prosecution agreement with the Epstein's defense attorneys.

"This is impossible to understand – the government intentionally misled the victims but found a way to get away with it by working with a child molester to get around the law. And the judges ruled in their favor. How?" Wild said in a statement.

Wild was Jane Doe 1 in the lawsuit filed a decade ago against the U.S. government.

Paul Cassell, the former federal judge serving also as her attorney, added, "We strongly disagree with today's ruling — which leaves victims like Ms. Wild without any remedy, even for victims like her who have been 'affirmatively misled' by federal prosecutors."

The panel's decision is likely to be appealed to the full 11th U.S. Circuit Court of Appeals because of the critical dissent by Hull. But a legal scholar said the victims would be better off going to Congress than relying on any review.

For the moment, the victims are emboldened by the dissenting judge.

Hull said her fellow judges bailed out the U.S. Attorney's Office and that the decision "eviscerates" the Crime Victims' Rights Act. She wrote it "makes the Epstein case a poster-child for an entirely different justice system for crime victims of wealthy defendants."

"According to the majority, because the office cleverly entered into a sweetheart plea deal with Epstein 'pre-charge' and never filed the indictment, the victims never had any CVRA rights in the first place," Hull said.

She said victims have the right to confer with prosecutors and to be treated fairly and this was "repeatedly violated" by the office then run by U.S. Attorney Alex Acosta.

Even the majority concluded that Acosta's prosecutors "worked hand-in-hand with Epstein's attorneys or at the very least acceded to their requests" to keep the nonprosecution agreement hidden from victims.

Still, Newsom wrote for the majority: "Despite our sympathy for Ms. Wild and others like her, who suffered unspeakable horror at Epstein's hands, only to be left in the dark — and, so it seems, affirmatively misled — by government lawyers, we find ourselves constrained to deny her petition."

Newsom put the blame on the "national media" for essentially ignoring for nearly a decade the

misdeeds of prosecutors and their betrayal of at least 30 Epstein victims in Palm Beach County.

However, The Palm Beach Post reported on the nonprosecution agreement at the time, even going to court to get it unsealed.

Then in 2019 prosecutors in New York filed new charges.

The Post followed up in November with a multi-part investigation into the role of Krischer and how he turned on the teenage victims of Epstein, treating them as prostitutes.

Attorney Ron Herman, who was a sex crimes prosecutor under Krischer but didn't handle the Epstein fiasco, said the 11th Circuit's opinion rubs salt into wounds that just won't heal.

"It takes away any remedy," he said. "If there is no remedy now available, clearly there has to be disappointment and frustration."

Edwards, the attorney who has fought this fight despite personal attacks by Epstein, said the victims are not giving up.

"Courtney has a lot of fight left in her," he said. "One way or the other, we will win. Even if it means we end up in front of the United States Supreme Court or we get Congress to change the law. "


Robert Jarvis, a legal ethics professor with Nova Southeastern University Law Center, said he doesn't think the 11th Circuit will review the case "en banc" because it is too unique and there is no true remedy without a living defendant.

He said the victims should go to Congress to argue to change the Crime Victims' Rights Act so that it applies if federal charges are never filed.

"The principal character is dead so the case is really moot," he said.

jpacenti@pbpost.com

@jpacenti



Support your local businesses.

Purchasing a gift card will provide your favorite businesses with much needed resources to manage through this challenging time.

[Buy a gift card now](#)

The Palm Beach Post
REAL NEWS STARTS HERE

support local.