

Court finds 'outrageous' conduct by police, dismisses case

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MOUNT VERNON — Criminal charges against an Anacortes man were dismissed by a judge Dec. 1 because of outrageous government conduct, marking only the second time in state history that charges have been dismissed on that basis.

Joshua Solomon was charged in 2014 with commercial sexual abuse of a minor, communication with a minor for immoral purposes and attempted rape of a child in the third degree following a police sex sting carried out by Skagit Multiple Agency Response Team detectives.

The charges were dismissed by Skagit County Superior Court judge Michael Rickert, who sided with defense lawyer George Freeman that law enforcement had instigated the situation that led Solomon to be charged with the crimes.

Due to procedural practices, the charges will likely be officially dismissed later this week.

The only other time in the state that a court has dismissed charges based on outrageous government conduct was in the 1996 Washington Supreme Court case *State v. Lively*.

Solomon's defense team drew comparisons between the two cases.

Solomon was one of six men arrested in September 2014 during a monthlong investigation that involved detectives posing as minors online. The men were arrested after they made plans to meet a fictional child for possible sexual purposes.

Solomon, who was 29 at the time, first came in contact with a detective posing as a 14-year-old girl after Solomon entered a Craigslist chat room for casual encounters.

According to court records, a notice on the Craigslist site read: "by clicking the link below, you confirm that you are 18 or older."

Freeman stated in court that the legal age requirement was the reason Solomon entered the chat room.

“Mr. Solomon relied upon the statement that the individuals in the (chat) room were 18. Somewhere during the conversation, the detective made the statement that, oh, by the way, I’m 14, almost 15,” Freeman said in court.

Freeman argued that the detective instigated the crime and that 60 percent of the contacts with Solomon were initiated by the detective.

Court documents reveal email and text message conversations between Solomon and the detective posing as the minor over the course of a week in September 2014.

The conversations detail that the initial contact between Solomon and the detective posing as the girl began when Solomon responded to a Craigslist ad placed by the detective.

When the detective involved in the sting told Solomon she was only 14, Solomon responded that it probably wasn’t a good idea and wrote, “I’m not willing to get in trouble ... maybe hit me up in 3 years if your [sic] still around girl,” according to court documents.

Part of the detective’s response to Solomon was “Age is only a number and your [sic] married anyway ... so your [sic] already in trouble,” court documents state.

Solomon responded by rejecting the offer by the detective posing as the girl to meet up, saying he thought something didn’t add up.

At one point, Solomon wrote, “I take everything back not interested at all this is a setup by cops or a website good luck to you,” court documents state.

The two continued to have text and email conversations in which the detective posing as the girl sent explicit messages to Solomon about wanting to meet him for sex.

“I think that this behavior meets the burden of outrageous government conduct,” Freeman said in court. “She clearly lured him in, she clearly instigated the crime. And for those reasons, I ask you to dismiss the charge this morning.”

Skagit County prosecutor Paul Nielsen argued that Solomon was not sought out by police, contrary to the case involving Lively.

Nielsen argued Solomon could have stopped responding to the detective’s messages, but didn’t.

“The government in this case was not controlling the criminal activity. This is text messaging between two people,” Nielsen said in court. “We’re not talking about face-to-face meetings. We’re not talking about emotional manipulation like in Lively.”

In court, Rickert described the detective's actions in the case as outrageous, egregious and over-the-top.

Rickert agreed that Solomon could have cut off the conversation with the detective posing as the girl at any time.

"Mr. Solomon was not righteous and does not have clean hands," Rickert said. "He's not wearing white gloves in this either."

However, Rickert called the language the detective used when talking to Solomon "repugnant."

"The sex trade on the internet is a horrendous problem," Rickert said. "The detectives and law enforcement have to do something to do that (address the problem), they need to do stings, but we need to have a line about how far is too far, and I think this is a good one to do that on."

Solomon is relieved to have the charges dismissed, Freeman said, adding that the case is nothing personal against law enforcement.

"In Skagit County, we have very good law enforcement people, excellent judges and a very confident defense bar," Freeman said. "We act as checks and balances to one another from time to time. This case means the system works the way it was designed to work. I'm a believer that the ends do not justify the means, even if it makes your blood boil."

Skagit County Prosecuting Attorney Rich Weyrich said he is disappointed with the dismissal of the charges and that he will consider the option of taking the case to the state Court of Appeals.

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