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Prosecutors Broke Law In Epstein Plea Deal, Fla. Judge Says

By [Carolina Bolado](#)

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Law360 (February 21, 2019, 5:58 PM EST) -- Prosecutors, including then-U.S. Attorney and current Labor Secretary Alexander Acosta, violated the Crime Victims' Rights Act when they signed a non-prosecution agreement with billionaire sex offender Jeffrey Epstein without notifying his victims, a Florida federal judge ruled Thursday.



Prosecutors failed to comply with their obligations to inform the victims of Jeffrey Epstein, shown in 2004, that they intended to enter into an agreement not to prosecute him, a judge said Thursday. (Getty)

U.S. District Judge Kenneth A. Marra granted summary judgment to two Epstein victims who sued the government over the deal and said federal prosecutors failed to comply with their obligations under the CVRA to inform Epstein's victims that they intended to enter into an agreement not to prosecute him.

The government's decision to hide its intentions and to tell victims to just be patient with the investigation was "particularly problematic," according to the judge.

"When the government gives information to victims, it cannot be misleading," Judge Marra said. "While the government spent untold hours negotiating the terms and implications of the NPA with Epstein's attorneys, scant information was shared with victims. Instead, the victims were told to be 'patient' while the investigation proceeded."

Judge Marra rejected the government's claim that the CVRA requires victims to be notified only of a plea bargain or a deferred prosecution agreement, both of which are more common than a non-prosecution agreement, according to the opinion. But that reading of the law is "inconsistent with the goal of the CVRA," the judge said.

"The expansive context of the CVRA lends itself to only one interpretation; namely, that victims should be notified of significant events resulting in resolution of their case without a trial," Judge Marra said.

The ruling is a big win for the two Epstein victims, listed as Jane Does, who sued the government in 2008 alleging the [U.S. Attorney's Office](#) for the Southern District of Florida violated the CVRA with the Epstein deal.

The CVRA grants crime victims a number of rights, including the right to be informed of public court proceedings and not to be excluded from those proceedings. The Miami Herald, in an investigative report published late last year, printed emails showing that the alleged victims were deliberately excluded from the deal cut between Acosta, who was then the U.S. Attorney for the Southern District of Florida, and Epstein's defense team.

Epstein's alleged victims — numbering in the dozens — claim he lured teenage girls to his Palm Beach, Florida, mansion to engage in sexual acts. They have

not had the opportunity to testify in court in any proceeding thus far, according to the Herald report.

Bradley Edwards, who represents the victims suing the government, called Judge Marra's decision a "clear victory and long-overdue vindication for all of the victims."

"It is unfortunate that at no time during the past 10 years has the government acknowledged its clear violation of the rights of dozens of crime victims," Edwards said. "Hopefully now they will stop defending what was clearly an improper agreement, apologize directly and unequivocally, and work to make it right."

Judge Marra said the parties have 15 days to tell the court how they wish to proceed to determine any appropriate remedies. Edwards said the primary remedy is the invalidation of the non-prosecution agreement.

A [U.S. Department of Labor](#) spokeswoman said the actions of the U.S. Attorney's Office in this case "have been defended by the Department of Justice in litigation across three administrations and several attorneys general." She said any further comment would have to come from the [DOJ](#).

The U.S. Attorney's Office for the Southern District of Florida declined to comment.

The DOJ has [opened an investigation](#) into whether its attorneys engaged in misconduct when negotiating the controversial deal with Epstein, according to a letter sent earlier this month to Sen. Ben Sasse, R-Neb., who repeatedly pushed for such an investigation. The letter said the DOJ's Office of Professional Responsibility had opened an investigation into the deal.

It was after reading the investigative report by the Herald that Sasse became concerned and sent two letters to the DOJ urging the agency to investigate.

The Herald's three-part series, "Perversion of Justice," showed how Acosta and other DOJ attorneys worked closely with defense lawyers to craft a lenient plea deal for Epstein in 2008.

The series was published just before Epstein was set to go to trial in a civil dispute with Edwards, who had filed a malicious prosecution claim against Epstein. The trial was to have featured testimony from some of his victims. But just before jury selection was set to begin, an attorney for Edwards [announced a settlement](#), while Epstein's attorney read an apology from his client to Edwards.

The victims are represented by Bradley Edwards of [Edwards Pottinger LLC](#), Jay C. Howell of Jay Howell & Associates PA, John Scarola of [Searcy Denney Scarola Barnhart & Shipley PA](#) and Paul G. Cassell of the University of Utah's S.J. Quinney College of Law.

The government is represented by Ann Marie C. Villafana and Dexter Lee of the U.S. Attorney's Office for the Southern District of Florida.

The case is Doe et al. v. U.S., case number [9:08-cv-80736](#), in the U.S. District Court for the Southern District of Florida.

--Additional reporting by Lauren Berg. Editing by Nicole Bleier.