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Herald-Journal (Spartanburg, SC)

July 27, 2007
Section: A
Page: A1

Ruling puts sex stings in jeopardy
Online predators: Judge says investigators using federal law incorrectly
Author: RACHEL E LEONARD

rachel.leonard@shj.com

Article Text:

Dozens of online child sex predator cases statewide could be in jeopardy following a Spartanburg judge's ruling that investigators are incorrectly using a federal law to obtain the identities of Internet users.

The state Attorney General's Office filed a notice Thursday appealing the ruling by Circuit Judge Mark Hayes on Tuesday. Hayes' order came as Anthony Clark Odom, 33, of Aiken was scheduled to stand trial in Spartanburg on a charge of criminal solicitation of a minor.

Spartanburg County sheriff's deputies arrested Odom in May 2006 on accusations he engaged in sexually oriented online chats with an officer posing as a 13-year-old girl.

Hayes ruled investigators used a federal law not supported by South Carolina statute to gather subscriber information from Odom's Yahoo! and BellSouth accounts. The trial has been postponed, pending appeal of the order, which suppressed evidence prosecutors said shows Odom was the man on the other end of the computer.

"Judge Hayes basically said they had no authority to do that," said Columbia attorney Jack Swerling, who represents Odom.

Odom, who served as assistant solicitor in the state's 2nd Circuit Solicitor's Office from 2002 to 2005, is one of 84 people arrested so far under the state Attorney General's Internet Crimes Against Children Task Force. Attorney General spokesman Mark Plowden said it would be a blow - but not a fatal one - to the program if the order is upheld.

"Would this be a hindrance to our investigative ability, meaning the task force, to track down suspected Internet predators? Yes," he said. "It is a valuable tool that we use, but it's not the only tool available to us."

If Hayes' rulings stands, the Attorney General's Office would have to find another legal route to obtain suspects' identities, Plowden said. Those convicted in cases involving the

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federal orders could challenge their convictions

The task force, which involves 34 law enforcement agencies across the state, is continuing its work. Plowden said. Of the 84 arrests to date, 24 resulted in guilty pleas, two resulted in guilty verdicts at trial and the rest are pending

Clash of laws?

At question is what's known as a federal "d-order" under Title 18 of the U.S. Code, Section 2703(d). The order is a signed document from a judge that compels Internet service providers and phone companies to disclose subscribers' personal information based on reasonable grounds to believe a crime has been committed.

Swerling said states can use the federal law to obtain subscriber information unless prohibited by state law. No South Carolina law prohibits that use, he said, but Hayes noted state law requires a higher standard, including probable cause and submitting a sworn oath, to obtain similar evidence.

Tom LeClair, a resource attorney with the University of South Carolina's Children's Law Center, said it's too early to tell how the ruling could affect similar cases.

"If the circuit judge's opinion is not overturned, that could pose a problem with other solicitors who have that same fact pattern," he said.

The task force's arrests also include men charged with attempted criminal sexual conduct after arriving at a prearranged location to meet with the "minor child." The use of the federal order to obtain the suspect's identity is not as crucial in those cases, Plowden said.

No comment

Hayes said he could not comment on the case because of state regulations concerning judicial conduct.

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Augusta Chronicle, The (GA)

July 25, 2007
Edition: Carolina
Section: Metro
Page: B01

Judge bars Internet ID from trial
Author: Sandi Martin South Carolina Bureau

Article Text:

AIKEN - The trial of a former Aiken County prosecutor accused of soliciting sex from a teenage girl online came to a halt on Tuesday when a judge tossed out key evidence against him.

The state attorney general's office plans to appeal Judge Mark Hayes' decision that investigators should not have been able to obtain Anthony Odom's identity from his Internet service provider, a spokesman for the office said.

Mr. Odom, 34, of the 300 block of East Hedge Road, was arrested last year and charged with felony criminal solicitation of a minor.

Authorities say that between March 12 and May 1 last year Mr. Odom propositioned a person he thought was a 13-year-old girl in a Yahoo chat room. The person was actually an officer from the Spartanburg County Sheriff's Office.

His trial in Spartanburg County stopped abruptly Tuesday with the judge's decision to suppress what the attorney general's office called "critical evidence."

Mark Plowden, a spokesman for the agency, said prosecutors have asked for a continuance of the trial and will file an appeal with the state Court of Appeals.

They are disappointed with the decision, he said

"These things happen, and we have to appeal it," he said.

Mr. Plowden said police departments in the state's Internet Crimes Against Children task force frequently use a provision in federal law to learn the identity of users in chat rooms.

A judge's signature on the order essentially requires Internet service providers to turn over identifying information about someone using certain screen names, he said.

"It's not the only way to ID them," Mr. Plowden said, "but it's a very helpful way."

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Mr. Odom's attorney, **Jack Swerling**, of Columbia, said the decision was based on a conflict between federal law and state law. The order to obtain his identity, Mr. Swerling said, was invalid because of it

"I think the judge made the right decision," he said.

Many of the men arrested under the state's Internet solicitation law were charged after arriving at a predetermined location to have sex with the "girl" they'd been chatting up.

Mr. Odom was arrested at his home

Should the attorney general's office lose its appeal, Mr. Plowden said, it could "hinder our investigations into Internet predators "

Mr. Odom, who left the Aiken County Solicitor's Office in 2005, also once participated in a seminar on the legalities of teenage sex, explaining how in South Carolina, only age matters, not consent, according to an article in The Augusta Chronicle.

"Under 16? You can't do it," he told parents and teens in 2005.

Reach Sandi Martin at (803) 648-1395, ext. 111, or sandi.martin@augustachronicle.com

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Article published Jul 25, 2007


Former Aiken solicitor's trial on sex charge in Spartanburg is postponed

By JOSH VOORHEES


Published: Wednesday, July 25, 2007

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A former Aiken County prosecutor accused of soliciting a minor for sex will have to wait a little longer before his case is heard by a jury of his peers.

The criminal trial of Anthony Clark Odom, 32, had been scheduled to begin Tuesday at the Spartanburg County Courthouse; however, it was postponed indefinitely Tuesday morning to afford the prosecution time to file an appeal.

The prosecution received a continuance after the judge granted a motion by the defense to suppress a small but important portion of the state's evidence.

Circuit Court Judge J. Mark Hayes II ruled that the methods used by the prosecution to obtain information from both Yahoo! and BellSouth regarding Odom's Internet accounts might fall outside of federal and South Carolina law, and as a result the state could not present that information to the jury.

"The evidence in question is very important to our case," said Assistant Attorney General David Stumbo, who is acting as lead counsel for the prosecution, after the hearing. "We asked for the continuance so that we would have the opportunity to appeal the issue to a higher court."

In question was exactly what federal law allows and what the state of South Carolina authorizes when it comes to securing electronic communication information.

The state argued that the information is freely provided to Internet carriers and that its disclosure is not nearly as invasive as that of a phone tap.

Odom's defense, led by Jack Swerling, focused instead on an apparent "hole" that exists in federal and state statutes dealing with the matter.

"This issue has been argued before at this level," Stumbo said. "This is the first time that it's gone against us."

Odom, 32, was arrested in May 2006 after allegedly soliciting what he thought was a 13-year-old girl to meet him for sex via an online Yahoo! chat room.

In reality, the person behind the online persona that Odom was propositioning in the "Romance-South Carolina" chat room was a Spartanburg County sheriff's deputy posing as an underage girl, authorities say. Odom was no longer working at the Aiken County Solicitor's Office at the time of the alleged crime.

The motion to suppress was approved after a lengthy debate on the issue that began Monday afternoon and continued Tuesday morning in both the courtroom and in the judge's private chambers.

Ultimately, Judge Hayes said that he was uncomfortable denying the defense's motion because there appeared to be an irreconcilable gap between the federal and state laws that cover how the prosecution can obtain the information in question.

The appeal will now move to either the South Carolina Court of Appeals or the state Supreme Court, said Stumbo.

"Hopefully this matter will be dealt with as expeditiously as possible," he said. "We intend to continue to pursue this case as vigorously as we have been."

The jury, which was selected Monday morning to hear the case, was dismissed at mid-day Tuesday without hearing opening statements from either side.

The alleged online interaction began in March 2006, only four months after Odom addressed an audience of parents and teenagers concerning the ramifications of someone having sex with a person under the age of 16.

At the event, entitled "Teens, Sex and the Law," Odom made it clear to the audience that when it comes to child sex crimes, the law is clear.

"Nothing else matters except her age," Odom said at the time. "There is no gray area in the law."

Odom was previously employed by the Aiken County Public Defender's Office and then the Aiken County Solicitor's Office from 2002 to 2005.

More recently, he had been working full-time at his private practice on Laurens Street and part-time with the City of Aiken as a deputy city solicitor prosecuting DUI cases.

The case is being tried in Spartanburg County and not Aiken County because of where the alleged

proposed sex acts were to have taken place.

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