

THE DISTRICT COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT AT FAIRBANKS

STATE OF ALASKA,
Plaintiff,
vs.
[REDACTED]
Defendant.

FILED in the Trial Court
State of Alaska Fourth District
OCT 24 2013
Deputy

Case No. 4FA-13-2273CR

MOTION TO DISMISS COMPLAINT

VRA CERTIFICATION
I certify that this document and its attachments do not contain (1) the name of a victim of a sexual offense listed in AS 12.61.140 or (2) a residence or business address or telephone number of a victim of or witness to any offense unless it is an address used to identify that place of the crime or it is an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

Defendant [REDACTED] through undersigned counsel and pursuant to Criminal Rules 3(a) and 5(d), moves this Court for an order dismissing the complaint in this case. This motion is based upon the fact that the complaint fails to provide the probable cause necessary to charge [REDACTED].

The complaint charges [REDACTED] with "Promoting Prostitution in the Fourth Degree." However, in 2012 via HB 359, the legislature renamed AS 11.66.135 "Sex Trafficking in the Fourth Degree" to more clearly reflect the focus on the person who is doing the trafficking than on the person who is being trafficked.

Likewise, [REDACTED] must not be charged with trafficking herself. The Governor's transmittal letter for HB 359 states the following:

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2
3 Alaska law imposes the most severe penalty, an unclassified felony, for
4 persons who exploit children by inducing them to engage in prostitution. It is
5 also a Class A felony for a person to force another adult to engage in
6 prostitution. The law also prohibits other conduct that encourages or allows for
7 promotion of prostitution.

8 When children are victimized in Alaska, they should not be labeled with the
9 actions of the offender who solicits sex, organizes its sale, and exploits
10 children. This bill changes the terminology for the crime by describing the
11 offender's conduct as sex trafficking rather than promoting prostitution.

12 Traffickers prey on the most vulnerable in our society—young girls and boys
13 who may have tragically experienced varying levels of physical and sexual
14 abuse and are often homeless. The most frequent entry age into prostitution for
15 girls is 12 to 14 years old. We believe that any child engaged in prostitution
16 (under the age of 18) is being trafficked, and thus, is victim of a severe and
17 serious crime rather than a prostitute.

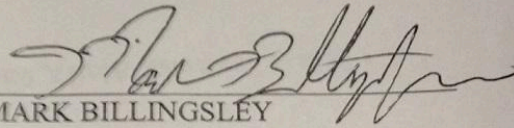
18 The crimes of sex trafficking and human trafficking are serious offenses which
19 violate the most basic human rights and deprive victims of every shred of
20 personal freedom. These crimes are often perpetrated by offenders working
21 together. Cooperating to encourage victims to come to the state for illegal
22 activity, or to induce children to engage in prostitution makes the ultimate
23 offenses, human trafficking or sex trafficking, more likely to occur. To address
24 this likelihood, the bill would add human trafficking in the first degree and sex
trafficking in the first degree to the crimes defined as serious felony offenses
for purposes of our conspiracy law.

17 Though primarily directed at children, this commentary recognizes the legislature's
18 understanding that trafficking is something done *to* prostitutes rather than something done *by*
19 prostitutes. The State's theory as described in the complaint is that [REDACTED] acted as
20 prostitute. Such allegation does not fall within the scope of conduct that the legislature sought
21 to criminalize in AS 11.66.135; instead, the allegation falls within the scope of conduct
22 criminalized in AS 11.66.100, "Prostitution."
23
24

The State should not be permitted to proceed under a theory that is inconsistent with the legislature's intent. And the State should not be permitted to proceed under a distorted interpretation of AS 11.66.135.

The complaint should be dismissed for lack of probable cause.

DATED at Fairbanks, Alaska, this 24th day of October, 2013.



MARK BILLINGSLEY
Assistant Public Defender
Alaska Bar No. 1011060

This is to certify that a copy of the foregoing is being:

Filed:

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To the listed attorney(s) or parties of record.

NAME

M Maxwell 10/24/13

DATED