



Former police officer has sexual assault charges dismissed

Brian Ervin pleads no contest to attempted interference with official proceedings

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By Klas Stolpe

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A former Juneau Police Department officer accused of sexually abusing a minor had four counts related to that allegation dismissed in a change of plea hearing in Juneau Superior Court on Friday, four days before his scheduled trial date and after nearly a year of him proclaiming his innocence.

That plea agreement rankled a representative of the Office of Child Services, who maintains Brian Ervin remains a danger to the community.

Ervin, 38, pleaded no-contest through attorney Louis Menendez to a new charge of attempted interference with official proceedings, a class 'C' felony with a maximum penalty of up to five years in jail, a \$50,000 fine, and supervised probation for 10 years. A presumptive sentencing range for a person with no prior felony convictions is zero to two years.

"Mr. Ervin will enter a plea of no contest to this charge," Menendez said. "In terms of a sentence the parties have agreed to a floor of one year and a ceiling of two years."

There would be no conditions of probation prohibiting Ervin from contacting minors, save the child who was alleged to have been his victim.

"We also wanted to be clear that, in terms of this plea, Mr. Ervin continues to deny any charge or uncharged allegations of sexual abuse or any other sexual wrong doing," Menendez said.

Menendez also said while this was a no-contest plea, Ervin continues to deny any allegations of illegal conduct with the minor who was alleged to have been his victim.

Office of Children's Services Southeast Regional Acting Manager Natalie Powers expressed concern after the hearing.

"The Office of Children's Services is very concerned about the charge that has been offered and taken," Powers said. "It is not reflective of the harm that has occurred or the risk that Mr. Ervin poses to the community."

When asked if the victim had a say in the plea agreement process, Powers said "I think you would have to refer to the DA's office for that and what a victim's rights are. We, however, are very concerned with the harm that has been done to the victim and the risks Mr. Ervin poses to society."

Judge Trevor Stephens, appearing by telephone from Ketchikan, said since Ervin committed the interference with official proceedings while out on bail, Ervin had violated the conditions of his release, which could be used as a sentencing aggravator. Ervin would agree to that potential enhancer as part of his plea agreement.

Because of the aggravator, Stephens can impose suspended prison time above the ceiling agreed upon. A no-contest plea means that Ervin does not intend to contest the new charge. For purposes of a criminal record, sentencing, and possible civil liability, a no-contest plea works just the same as a guilty plea and Ervin forfeits his rights to trial.

The minor alleged to have been Ervin's victim declined to speak in court when given the opportunity to do so.

Ervin and Menendez had no comment about the case as they left the court and District Attorney Dave Brower said he would not comment about the case until after sentencing.

Sentencing was set for Nov. 21 after probation officers conduct an investigation and presentence report. Ervin's counsel will be attorney Julie Willoughby, as Menendez will have taken a position on the bench as a Juneau Superior Court judge by that time. Ervin's prior conditions of release remain in effect.

Ervin was initially charged on Sept. 16, 2010, after an investigation by the JPD of reported sexual abuse. Ervin, a JPD officer at the time, was charged by the District Attorney's office with one count each of first-degree and second-degree sexual abuse of a minor. On Oct. 1, 2010, a grand jury indicted Ervin

on two additional charges of first-degree sexual abuse of a minor.

Empire archives reveal that, as of February 2011, Ervin was still employed by the City and Borough of Juneau, but was not working as a police officer. How Friday's guilty plea will affect his employment is unknown.

A civil case involving another matter with Ervin is pending.

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