

William O'Connell to plead guilty to drug charge; jail unlikely

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QUINCY — Less than two years after William O'Connell was charged with having a sexual relationship with a 14-year-old girl, and three months after the girl was killed in a fiery car crash, the wealthy Quincy developer is likely to walk out of court Friday a free man.

A prosecutor and lawyer for O'Connell will present a plea agreement to a Norfolk County Superior Court judge that drops all charges against O'Connell, including four statutory rape counts and a cocaine-trafficking charge.

In exchange, O'Connell will plead guilty to possessing cocaine. His sentence will be decided by a judge but is not likely to include jail time.

The statutory rape charges are being dropped because of the alleged victim's death, which occurred Dec. 18 at about 3:30 a.m. in Malden while she was driving a car police say did not belong to her. Investigators have ruled out foul play in the death.

The girl's death meant statements she made to investigators about her relationship with O'Connell could not be admitted as trial evidence, said Andrew Berman, a special prosecutor assigned to the case by Norfolk County District Attorney Michael Morrissey.

"The defendant has not had a chance to cross-examine the witness relating to her statements," Berman said. "It is a fundamental right of the defendant to confront witnesses against him. This case was based entirely upon the evidence that we expected (the victim) to give in court."

O'Connell's trial was scheduled to begin in October.

The prosecution charged that the girl and O'Connell, 73, had a sexual relationship over several months in 2009, when she was 14.

The girl, who was 17 when she died, told investigators O'Connell gave her cash and a credit card to buy clothes and gifts, and a cell phone to keep in touch with her.

O'Connell's lawyer, Stephen Delinsky, declined to comment on the plea deal when reached Wednesday.

Charges will also be dropped against Phyllis Capuano, a 22-year-old from Everett who was charged as O'Connell's co-conspirator in the initial alleged assault. Prosecutors say Capuano introduced the girl to O'Connell.

Berman said Capuano would not make a reliable trial witness against O'Connell. After an initial interview, Berman said Capuano obtained a lawyer and began to assert her 5th Amendment rights.

"Capuano admitted in an un-sworn statement to the State Police that she witnessed the initial sexual assault by O'Connell; she later recanted that statement," Berman said. "Without her testimony, in light of the death of the victim, that charge is not provable."

O'Connell's alleged victim was interviewed by a State Police investigator in March 2011 about her relationship with O'Connell, and detailed interactions with him in his Marina Bay condominium.

Her statements, including a description of a safe in the condominium that contained cocaine, were used in support of a request for a search warrant for the condominium. Police said they found 18 grams of cocaine in the safe, but Berman said there was not suitable evidence to prove O'Connell was distributing it, a key element of a drug trafficking charge.

The arrangement comes after Berman reached a plea deal last year with O'Connell's nephew, Robert, who was charged with shooting a Milton firefighter in the stomach in 2009 after a traffic confrontation in Quincy.

The victim, Joseph Fasano, said he did not want to revisit the trauma of the shooting by testifying at trial. Robert O'Connell ultimately spent less than two months in jail after he was paroled and reached an undisclosed settlement with Fasano in a civil lawsuit.

Berman, who said the victim in the William O'Connell sex assault case was reliable and good-hearted, said he was "disappointed" by the outcome of the case against the prominent developer.

"I have to play the cards that I'm dealt and base my decision on the state of the evidence," Berman said. "I believe that crimes were committed, and it's disappointing that the victim won't have her day in court."

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