

Robert Kraft Wins Critical Ruling: Video Evidence Is Thrown Out

By Ken Belson and Frances Robles

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New England Patriots owner Robert K. Kraft all but defeated two charges of solicitation of prostitution when a Florida county judge on Monday threw out key evidence obtained in surveillance videos and a traffic stop.

The ruling was a resounding victory for Mr. Kraft, who had refused to accept a plea deal, maintaining he did nothing illegal when he visited a day spa in Jupiter, Fla., on two consecutive days in late January. Mr. Kraft refused to pay a fine and perform community service to resolve the two misdemeanor charges because the deal would have required him to admit that the prosecutors would have won the case if it went to trial.

Mr. Kraft's decision to fight the charges turned what normally would be a routine case into a highly public and often acrimonious battle with the police and prosecutors in Palm Beach County.

Mr. Kraft and 24 other men were charged on Feb. 22 in conjunction with a wider investigation into human sex trafficking at a chain of massage parlors in Florida. Mr. Kraft and the other men were not charged with trafficking.

Mr. Kraft's lawyers bombarded the court with motions, first to keep the video evidence private until the case was resolved and then to prohibit the video from being used as evidence. The release of the video — which, according to police affidavits, showed Mr. Kraft as the recipient of sex acts — would have prejudiced any trial, his lawyers argued.

In legal motions and at hearings, Mr. Kraft's lawyer argued that the police had overreached when they hid surveillance cameras inside the spa. On Monday, Judge Leonard Hanser of Palm Beach County Court agreed.

Judge Hanser said in a 26-page ruling that the investigators had reasonable probable cause to request that surveillance cameras be installed in various parts of the Orchids of Asia Day Spa, including in the treatment rooms.

But he said the search warrant was “insufficient” because it did not define parameters of how to protect customers at the spa who were not under suspicion from being videotaped and from violations of their Fourth Amendment rights against unreasonable searches and seizures. The judge also called the video evidence “seriously flawed.”

The cameras were haphazardly installed, the judge said, and they captured video of people, particularly female clients of the spa, who were not subjects of the investigation. There were no instructions in the search warrant on how to prevent these people from being videotaped.

“The fact that some totally innocent women and men had their entire lawful time spent in a massage room fully recorded and viewed intermittently by a detective-monitor is unacceptable and results from the lack of sufficient pre-monitoring written guidelines,” the judge wrote.

Because the video evidence was the basis for the police’s decision to stop Mr. Kraft and confirm his identity as he rode in a friend’s car, the evidence from the traffic stop was also thrown out.

“All information obtained through the stop is suppressed as the fruit of an unlawful search,” the judge wrote.

The next step would most likely be for Mr. Kraft’s lawyers to file a motion to dismiss the case. For now, the prosecutor in the case has left open the option of an appeal of Monday’s ruling. “We are reviewing the judge’s order at this point,” Michael B. Edmondson, a spokesman for the Palm Beach County prosecutor’s office, said in an email.

The case has brought international attention to the issue of human trafficking and tarnished one of the most powerful owners in sports. It also cast an unflattering light on the N.F.L. regarding the treatment of women. In recent years, the league has been embroiled in a host of domestic violence scandals. Cheerleaders have accused teams of exploiting them. Last year, Jerry Richardson, the former owner of the Carolina Panthers, was fined \$2.75 million after an investigation confirmed claims that he sexually harassed employees for years.

Because he was charged as a first-time offender, Mr. Kraft, 77, was unlikely to face time in jail, and his record would have been expunged if he completed the terms of the plea deal in Palm Beach County, where he keeps a home at the famed luxury hotel, the Breakers.

While the case against Mr. Kraft hangs in the balance, he may still be penalized by the N.F.L.’s commissioner, Roger Goodell, who has broad authority to hold players, league executives and owners accountable for conduct he deems detrimental to the league. Those penalties can include fines of up to \$500,000 and suspensions, based not just on the legal case against Mr. Kraft but also on the damage he did to the league’s reputation.

The decision will not be simple. Kraft works closely with the commissioner, and is a member of several powerful committees that oversee the league's media strategy, finances and labor negotiations, as well as the committee that sets the commissioner's salary. Kraft also owns one of the most successful franchises in league history, and within owner and executive circles, he is known as "the assistant commissioner," with no small hint of resentment.

Joe Tacopina, a New York lawyer who filed a federal class-action civil rights lawsuit on behalf of Joyce Vedral, a fitness expert in her 70s, and other law-abiding massage patrons captured on the video, said Mr. Kraft's case — and the prosecutions of all the other men accused — was most likely doomed.

"This case should be dismissed within an hour," Mr. Tacopina said.

Mr. Tacopina, a former prosecutor, said the video surveillance was illegal, because police had failed to do what is called "minimization," monitoring and stopping recording when there is no criminal activity.

"You can't just keep it running and say, 'We'll deal with it later,'" he said. "It is a basic tenet of surveillance, and it's shocking that these law enforcement officers had not done this. These were serious Fourth Amendment violations here, and the judge had no choice but to suppress the tape."

Mr. Tacopina said he would now move to make sure that the recordings of his clients were kept under permanent seal.

To ensure that the surveillance video is not released as part of other cases, Mr. Kraft's lawyers quickly filed a motion to the court asking for the videos to be permanently sealed.

"The court should make it abundantly clear that the state cannot make an end run around the court's orders by simply dismissing its charges against Mr. Kraft and then releasing the videos with impunity," the lawyers wrote.

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