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Defense Challenges Claims of Internet Chat Intent

By Michael D. Harris
Daily Journal Staff Writer

Due to the anonymous nature of Internet chat rooms, a Woodland Hills man could not have known for certain the age of the person he solicited for sex in cyberspace, the man's lawyer told jurors in closing arguments at his trial Tuesday.

Therefore, defense attorney James Blatt said, Aidin Ghaffari, 22 could not have had the intent to have sex with a minor, as the person he was chatting with described herself.

And if there was no intent, Blatt argued, then Ghaffari must be acquitted by the Superior Court jury of two counts of trying to send harmful matter to a minor and one count of attempted lewd act on a child, all felonies. People v. Ghaffari, SA033885.

In reality, the person Ghaffari was chatting with was a male FBI agent posing as a 13-year-old girl in an attempt to catch adults who sexually prey on children online.

"Anonymity is the drug of the Internet," Blatt told the seven-woman, five-man, racially mixed panel "He (Ghaffari) does not know who he's talking to. And the nature of the medium is fabrication."

Considering his chat partner's frequent adult-like references to condoms, "is it so preposterous to believe that Mr. Ghaffari would believe he's talking to . . . someone older pretending to be a 13-year-old?" Blatt asked.

But Deputy District Attorney Wendy Segall countered in her summation that Ghaffari's "criminal intent was clear. . . .He asked her if she was a virgin. He asked her out. He said he was a 'good teacher.'

"He intended to meet a 13-year-old . . . and have sex," Segall said. ". . .That was his intent."

And that intent, Segall stressed, "Is the focus of this case," even if "there never was a 13-year-old girl. . . .That is what is on trial here. Not the Internet and not the FBI."

Even Blatt conceded that in making the sexual solicitation, Ghaffari was "boorish, inappropriate and disrespectful."

"We are not condoning the statements and actions of Mr. Ghaffari," Blatt said. "But the issue is: Did those actions constitute a crime?" In the defense's view, Blatt said, they clearly did not.

Ghaffari twice chatted with the FBI agent, who used the moniker "Cal_Girl," in October. After writing the "we're gonna have sex, OK?" Ghaffari agreed to meet his online acquaintance in a Westwood park. Once there, Ghaffari, a data entry clerk and part-time college student, was arrested.,

Presiding over Ghaffari's West Los Angeles trial is Judge Judith Abrams.

This case is pending appeal.

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Man's Trial Raises Issue of Sex Talk on Internet Online: Woodland Hills resident is accused of arranging tryst with underage girl, who was actually undercover officer.

By Caitlin Liu
Times Staff Writer

The online conversation began innocently but quickly turned racy.

Twice last October, 22-year old Aidin Ghaffari of Woodland Hills chatted over the Internet with someone who described herself as a 13-year-old girl. After she told Ghaffari she was blond with a girlish figure, he wrote her: "We're gonna have sex, OK?"

They agreed to meet at a Westwood park. There, Ghaffari, a data entry clerk and part-time college student, was arrested on suspicion of sending harmful matter to a minor and attempted lewd conduct. The cyberspace girl turned out to be a real-life man--an undercover FBI agent using the moniker "Cal_Girl" while prowling an Internet chat room in search of adults who sexually prey on children.

As Ghaffari's criminal trial got underway last week in West Los Angeles Superior Court, the prosecution and defense agreed on key facts of the online conversations Ghaffari had. But they differed sharply over how to interpret what occurred.

At the heart of the case is a broader debate over the nature of online conversation and whether the law involving crimes in cyberspace, which is in its infancy, ought to treat chat room banter just like any other. Should Ghaffari's sexual advances to someone who claimed to be a minor be taken seriously just because they occurred over the Internet?

"The defendant here is on trial. The Internet and how it works is also going to be on trial," said Ghaffari's attorney, James E. Blatt, in his opening statement to the jury of seven women and five men.

He said he would show that conversations over the Internet are inherently untrustworthy because of the anonymity the medium offers.

Blatt also suggested that the FBI agent had gone too far in luring Ghaffari into talks about sex and had used language that made Cal_Girl seem older than 13.

The prosecution is arguing that online chats are no different from exchanging letters or telephone calls.

Ghaffari asked someone he believed to be a minor for sex, and then went to the park expecting to meet her there for a tryst, said Deputy Dist. Atty. Wendy Segall.

"This is not a case of someone playing around on the Internet. This was serious," she said in her opening statements. She later portrayed Ghaffari as the aggressor and said he believed Cal_Girl to be 13.

In more than an hour of testimony, FBI Special Agent Bruce Applin, who posed as Cal_Girl, reenacted the digital conversation between himself and Ghaffari, who used the nickname "JAMINinLA."

After finding out that Cal_Girl was apparently 13 and lived in Los Angeles, Applin said, Ghaffari peppered Cal_Girl with more questions: What do you look like? Are you hot?

Cal_Girl replied that she was 5 feet 2 and weighed 110 pounds, with blonde hair and blue eyes.

"Cool," Ghaffari wrote, according to Applin. After claiming to be 19, he truthfully described himself: 5 feet 11, 170 pounds, black hair and brown eyes, Persian.

When Cal_Girl said she had "no experience at all" sexually, she typed in the symbol showing a sad face.

"I can be a good teacher," Applin said Ghaffari responded.

That brought a happy face symbol from Cal_Girl.

Applin said that, minutes later Ghaffari wrote: "We'll go somewhere quiet so they can't see me making love to you."

Two days later, the two chatted again, confirming their intentions to meet the next day to have sex, Applin said. Several times Cal_Girl asked Ghaffari to bring "rubbers" so that she wouldn't get pregnant, and he replied he would, the agent said.

Applin and Stephanie Green, a 29-year-old FBI agent, testified about how Green posed a decoy on the morning Ghaffari was to meet Cal_Girl.

At their designated meeting time, Ghaffari walked to the picnic table where Cal_Girl was to sit and circled Green, looking at her several times, she said.

Ghaffari got as close as 20 feet and then walked away, she said. She testified that she figured he didn't think she looked 13. No words were exchanged between the two, she said.

Applin arrested Ghaffari. He said officers found two condoms in the defendant's parked car.

Another FBI agent, Timothy Alon, testified that he went into the same chat room and posed as a petite blonde 13-year-old girl and Ghaffari made sexual advances. They agreed to meet at a mall near the Westwood park 90 minutes after Ghaffari was to meet Cal_Girl, Alon testified.

During cross-examination, Blatt established that Applin, who was really 29, had lied about his age on the Internet to Ghaffari and that Applin believed many people lie and role-play while conversing online.

"You couldn't tell what age they were. You couldn't tell if they're male or female," Blatt said. "That's the nature of the medium, isn't it? You can't tell if someone's lying to you."

"Nobody really knows who they're talking to on the Internet, do they sir?" Blatt continued.

"No they don't," Applin responded.

Throughout the first two days of trial, which began Thursday and is expected to end later this week, Ghaffari's mother, Farny Hatami, sat in the front row weeping.

"He didn't do anything wrong," she said outside the courtroom, clutching a crumpled tissue and a reporter's sleeve. "He didn't touch the girl. They should only arrest him when he touches the girl."

This case is pending appeal.

Sept, 29 2000--Appellate Decision Made:
Daily Journal, Friday, September 29, 2000. Re-printed by permission.

Court Reverses Jury in Cybersex-Chat Case

By Anne La Jeunesse
Daily Journal Staff Writer

Although it may be "reprehensible" for a man to make plans to engage in sex with a 13-year-old girl, merely making the plans over the Internet does not constitute a description or depiction of sexual conduct, the 2nd District Court of Appeal has ruled.

Aidin Ghaffari, who was 22 at the time of the offense, was convicted in 1999 of two counts of sending harmful matter with the intent of seduction of a minor after he arranged to meet an Internet chat room acquaintance, who said she was 13 years old, in order to have sexual intercourse. *People v. Ghaffari*, SA033885.

In reality, Ghaffari was "chatting" with an adult man, an FBI agent, when he described himself to his intended sex partner, who used the moniker Cal_Girl.

But in an unpublished opinion Wednesday, the appellate court reversed the jury verdict, saying there was insufficient evidence to sustain his conviction. *People v. Ghaffari*, B133199.

The district attorney's office, which prosecuted Ghaffari, improperly confused Ghaffari's unsavory conduct with his relatively innocuous online speech, the higher court ruled.

"While attempted seduction of a 13-year-old virgin by an adult man most certainly ought to be punished, the fact remains that the jury did not convict appellant of attempted lewd acts on a minor, and the evidence at trial did not establish the offense the jury did convict him of: transmitting 'harmful matter' as statutorily defined," Justice Earl Johnson Jr. concluded. Presiding Justice Mildred L. Lillie and Justice Richard C. Neal concurred.

Ghaffari's attorney, James Blatt, said he was very pleased with the decision and said it had caused much buzz at the time of the trial because it was one of the first cases to test cybersex chat.

"This caused a lot of division in the community," Blatt said. "People did not like the FBI on the chat lines, and they were concerned about free speech issues and issues concerning harmful matter."

Deputy District Attorney Wendy Segall said she had no comment late Thursday and that no decision had been made yet about how or if to proceed again against Ghaffari.

Los Angeles Times, Friday, September 29, 2000. Re-printed by permission.

Conviction for Soliciting Sex Over Net Overturned

By: CAITLIN LIU
TIMES STAFF WRITER

In a decision that may make it more difficult to police the Internet, a state court of appeal Thursday overturned the conviction of a Woodland Hills man for soliciting sex with a girl in an online chat room.

The "victim," who was identified on the Internet as a 13-year old, was in fact a male undercover FBI agent.

"Oh my God, I'm so happy!" said the defendant, Aidin Ghaffari, now 24. "The truth came out."

Judges who overturned the conviction still had harsh words for Ghaffari.

"While we are repulsed by [Ghaffari's] attempt to set up a meeting with a 13-year-old virgin for the purpose of having sex . . . we see no communication by [him] even coming close to 'harmful matter,'" stated the opinion of the 2nd Appellate District. "Making plans to meet and perhaps 'have sex,' although certainly reprehensible, is not the same thing as describing or depicting sexual conduct."

Ghaffari, who was 22 when convicted, can now clear his record and "will no longer be a registered sex offender," said his lawyer, James E. Blatt. He was convicted of sending harmful matter to a minor and sentenced to three years' probation and time served.

Prosecutors declined comment. Deputy Atty. Gen. Russell A. Lehman said he has not yet decided whether to appeal.

The case was closely watched by prosecutors and law enforcement agencies because it involved the emerging field of Internet criminal law and the work of a special multi-agency task force aimed at halting sex crimes, especially those committed with a computer, against children.

"This decision indicates a difficulty that Internet criminal law presents to prosecutors," Blatt said.

In 1998, Ghaffari struck up an online conversation with a self-described 13-year-old girl. He peppered her with questions such as "What do you look like?" and "Are you hot?"

After the cyber girl told him that she was blond, petite and had no sexual experience, Ghaffari offered to be her teacher.

He set up a rendezvous for sex, and when he arrived at their designated meeting place, he was arrested by FBI Special Agent Bruce Applin, who had posed as the girl.

FBI supervisory agent Randy Aden, manager of the task force—which includes local, state and federal agencies—said: "We respect the decision of the appellate court. We will conform our investigation within the parameters of those statutes and any appellate decisions that are made."

Sandi Gibbons, spokeswoman for the district attorney's office, which prosecuted the case, said a decision on whether to press additional charges will not be made until after appellate issues have been resolved.