

SJC orders new trial for former South Shore girls soccer coach

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By John R. Ellement, Globe staff

The state's high court today ordered a new trial for a former high school girls soccer coach convicted of sexually assaulting two sisters during a sleepover attended by his own children at the family home in Duxbury in 2004.

The Supreme Judicial Court said Jose M. Arana Jr. did not get a fair trial because Plymouth County prosecutors and the trial judge allowed too many witnesses to extensively describe conversations they had with the two alleged victims even though the talks were not directly linked to the assaults.

The court said the conversations violated court rules regarding "first complaint" testimony. Arana was convicted in 2007 and the SJC today retroactively applied "first complaint" rules it created last year.

Arana was convicted of one count of rape of a child with force, one count assault with attempt to commit rape, two counts of indecent assault and battery on a person 14 years or older, and three counts of giving alcohol to a person under 21. He was acquitted of six charges, including three counts of rape of a child with force.

"We conclude that errors were made throughout the trial that could have influenced the jury's verdicts on the charges of rape, assault with attempt to rape, and indecent assault and battery," Justice Margot Botsford wrote for the unanimous court. "Accordingly, we reverse those judgments of conviction."

A former soccer coach for Notre Dame Academy in Hingham and coach of an area travel team, Arana was sentenced to 11 to 17 years in state prison. The court tossed his sex crime convictions, but left intact the alcohol convictions.

Two of his daughters were called as prosecution witnesses but the SJC's ruling did not discuss their involvement as witnesses. According to the SJC, Arana apologized to one of his daughter's in a voicemail.

Arana's appellate attorney, Robert F. Shaw, Jr., applauded the court's decision because the trial "that occurred was very unfair ... Jose Arana is entitled to a fair trial; he's entitled to basic, fundamental fairness. The multiple and excessive errors in this case deprived him of a constitutional right to a fair proceeding."

A spokeswoman for Plymouth County District Attorney Timothy J. Cruz said prosecutors planned to retry Arana.

“While we are disappointed in the final decision of this case and we disagree with the Supreme Judicial Court's rulings on particular hearsay exceptions, particularly those exceptions relating to testimony or records of medical personnel, we are bound by the Court's decision today and will adhere to it,” Cruz said in a statement.

The incident allegedly occurred July 28, 2004. The parents of the sisters sued Arana and his wife, Susan, in Plymouth Superior Court, before the criminal case went to trial. That lawsuit is still pending, according to court records.