

Sexual abuse charges dropped against a former LDS bishop

Legal technicalities defeated their case, prosecutors say

Associated Press

Published: Wednesday, March 30, 2005 9:49 a.m. MST

Prosecutors say legal technicalities have forced them to drop child sex abuse charges against a former LDS bishop — despite their insistence that he committed the crimes.

Deputy Salt Lake County District Attorney Paul Parker said Monday that the prosecution was frustrated by the state's definition of sexual abuse of a "child" as someone younger than 14 years of age, the time limits on prosecuting sex crime cases and day planner records from David James Gomez, the accused 58-year-old.

"It's not about whether or not it occurred. It's the time frame," Parker told 3rd District Judge Judith Atherton during a hearing Monday.

Gomez, who was charged with three counts of sodomy on a child and three counts of child sexual abuse, was accused of abusing a boy on several occasions in 1989 and 1990 after the boy sought counseling from him at the age of 13. The alleged victim did not report the abuse until 2004.

By that time, a four-year legal deadline to prosecute Gomez for adult sex crimes had already passed. Gomez, who was also an administrator for the Utah Department of Corrections, was instead charged under a 1991 law allowing child sex crime charges to be filed within four years of when an adult victim reports them, regardless of when they occurred.

Although the alleged victim in the case against Gomez says he can recall the events, he is less clear about the exact dates they occurred, according to court documents. Parker said in court he had hoped to use information from a witness who kept a journal entry to prove Gomez sexually abused the victim in the spring of 1989 before his 14th birthday.

But Gomez produced old day planner entries and correspondence that cast doubt on whether the abuse occurred during that time frame, Parker told the court Monday.

Lawmakers this year extended the deadline to file charges of rape from four to eight years after the alleged crime. But Parker said that extension would not have helped in this case, because the victim came forward about 14 years after the alleged abuse. He said only increasing the age of a child under Utah's child sex crime laws could have helped his case.

Gomez's defense attorney, Mark Moffat, said the statutes of limitation "are there to provide some fairness and finality in people's lives.

"It becomes incredibly difficult for people to defend against criminal actions in cases where years have elapsed," he said.