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■ **Court ruling:** A judge says John Webster won't have to register as a sex offender in his 1990 conviction.

# Sex crime case haunts state Senate candidate

BY [BILL ROMANO](#)  
Mercury News Staff Writer

A Sunnyvale software engineer who last month won the Libertarian Party's nomination for the 13th District state Senate seat is a registered sex offender trying to clear his name over a decade-old conviction that he solicited an undercover policewoman to have a tryst with his teenage son.

On Friday, he got a partial victory in that fight. Santa Clara County Superior Court Judge John Ball ruled that John Webster, a political free-thinker with unconventional views on family life, won't have to continue registering as a sex offender, but refused his request to throw out the old no-contest plea and let him stand trial on the original charge.

The judge ruled it would be too difficult for both sides to argue the case 10 years after the fact, and prosecutors were considering possible appeals of the judge's ruling on the sex-offender status.

Webster called the decision a "hollow victory" and said he wanted a chance to prove his innocence in open court.

When he pleaded no-contest to a 1990 felony charge of attempted child pandering, says Webster, now 55, it was so he could get out of jail quickly and fight what he calls unfair police tactics. He also made the plea with the understanding he would not be required to register as a sex offender.

Since then, however, California's version of Megan's Law was passed, and amendments to the California Penal Code have

expanded the number of crimes for which violators are required to register. Child pandering is now one of them, and the law is retroactive to crimes committed since 1943.

Webster says the case against him was entrapment, and also claims that by selectively withholding some of the letters he sent to the undercover officer, and by enhancing audio tapes of telephone conversations with her, prosecutors made him appear guilty of a crime when all he was doing was acting out fantasies.

``One of the defects of democracy is the big lie that law is sacred," Webster said. ``I am not an evil pedophile."

Webster's criminal past apparently was not a major issue in the March 7 election, which saw him out-poll his rival in the Libertarian primary, Kenita Watson, by a slim margin. Webster previously had run for the same post without success, and he and Republican candidate John Longwell are given only a slight chance of unseating Democrat John Vasconcellos in the November general election.

#### **Party concerned**

In the past, efforts to rein in Webster by some local Libertarians -- concerned over some of his public attitudes -- have been unsuccessful. Former party chairman Sam Seviens says Webster would have lost the primary had more voters been aware of his beliefs and personal history.

Marv Rudin of Sunnyvale, current chairman of the Santa Clara County party, said that all he knows about Webster's legal troubles is what Webster has revealed.

On his Web site ([www.jwebster.com](http://www.jwebster.com)), Webster outlines his legal troubles and calls himself a ``politically incorrect parent." One section details his belief that people benefit from innocent sexual experiences in childhood and that as a parent, he felt he should help create these experiences for his own children.

If Webster had succeeded in having his plea stricken, he could have faced trial on the original charge. If convicted, he could have faced prison time. He also has generated negative publicity during what already was an uphill campaign for political office.

Webster acknowledged that the move was a gamble, but one he had to take to ``reconnect" with his two grown children and spotlight misuse of government power.

The District Attorney's Office opposed Webster's bid for a plea reversal.

``This court should not set aside the petitioner's guilty plea to felony child pandering because it is immaterial to the plea that the

offense later became a registerable sex offense," prosecutor Judith Sklar said.

The events that resulted in Webster's no-contest plea unfolded more than 10 years ago.

In December 1989, San Jose police arrested Webster in a sting after he answered an advertisement placed in the magazine *Swinger's Digest* by an agent for the U.S. Postal Service. It read: "White female with children seeks the right man who understands my needs and those of my family, society does not. Please be discreet."

According to Webster, he and the agent exchanged several letters, after which an undercover officer posing as the interested pen pal contacted him. The female decoy subsequently recorded phone conversations between them in which police allege he tried to solicit her for sex with his 14-year old son.

Webster claims he was really interested in relations with the woman himself, but at the same time considered the possibility the woman might also have been helpful in educating the boy.

### **Corruption allegations**

Later, Webster used his own Web site and newspaper ads to accuse authorities of corruption and the falsification of evidence in his case, as well as to vent criticism on police and the legal system. The audio tapes, Webster has charged, were purposely and professionally altered to incriminate him. And it was the officer -- not he -- who initiated sexual offers. The magazine's classified ad, he said, was an example of illegal entrapment by local police and the Postal Service.

The act to which he pleaded, he claims, was no more than phone-sex fantasy -- a "thought crime" that never actually was carried out. Webster received a one-year jail term and was given credit for time served. He was in custody for about eight months before being released on five years of probation.

### **Legislature blamed**

According to Webster's lawyer, Daniel Mayfield, the pandering provision was not made a registerable offense until the Legislature acted in 1994. Three years later, the provision was made retroactive to 1943. Shortly afterward, Webster received a notice from police to come in and register.

"Mr. Webster is in the position he is, not because of his action, or the actions of the judge, but because of the actions of the Legislature. Never before has the Legislature imposed a direct consequence for a plea of guilty years after the plea itself," Mayfield argued in his motion.

Mayfield relied on a 1999 California Supreme Court decision that in a somewhat similar circumstance holds registration as a sex offender to be a direct consequence of a plea for which a defendant must be informed in advance.

Most courts, Sklar contended in court papers, view registration as a sex offender as a collateral consequence, not a direct consequence, of a conviction. A sentencing court's failure to advise a defendant of such an obligation is not grounds for withdrawal of a plea, she argued.

In the Webster case, the prosecutor said, he was never promised he wouldn't *ever* have to register as a sex offender. Certainly there was no guarantee that the Legislature would not make attempted child pandering a registerable crime, Sklar said.

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