

SUPREME COURT OF NEW JERSEY

Jamgochian v. New Jersey State Parole Board, 196 N.J. 222

952 A.2d 1060 (2008) · No. A-63 September Term 2007 · Decided August 6, 2008

SUMMARY

The New Jersey Supreme Court held that a person subject to lifetime community supervision has a liberty interest implicated by an eleven-hour daily curfew. The court concluded that the Parole Board was required to provide notice and an opportunity to be heard before imposing the curfew, although the offender was not entitled to the full procedural protections of a criminal trial. The court affirmed the Appellate Division's judgment that the procedures used were constitutionally inadequate.

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Justice Albin; Chief Justice Rabner; Justice Long; Justice LaVecchia; Justice Wallace; Justice Rivera-Soto; Justice Hoens
JURISDICTION	New Jersey
DECIDED	August 6, 2008
DOCKET	A-63 September Term 2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	The New Jersey State Parole Board appealed as of right from the Appellate Division's due-process ruling, and the Supreme Court granted the Board's petition for certification. The Appellate Division had held that the Board violated Jamgochian's due-process rights by imposing and continuing a curfew without sufficient notice and a meaningful opportunity to be heard.
STANDARD OF REVIEW	Constitutional due-process issue reviewed de novo; the court applied the Mathews v. Eldridge balancing test to determine the procedures required.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of New Jersey; precedential.
PARTIES	Ronald Jamgochian v. New Jersey State Parole Board

TOPICS

procedural due process

due process

administrative law

judicial review of agency action

criminal procedure

PRACTICE AREAS

constitutional law

administrative law

criminal procedure

parole and community supervision

QUESTIONS PRESENTED

1. Whether a community-supervised-for-life offender has a protected liberty interest implicated by a substantial curfew imposed after release from prison.
2. Whether due process requires reasonable notice and a meaningful opportunity to be heard before the Parole Board imposes such a curfew.
3. What minimum procedural protections are required when a curfew is imposed on an emergent basis or when the offender disputes the allegations or rationale supporting it.

HOLDINGS

1. A community-supervised-for-life offender retains a liberty interest in continued freedom, and an eleven-hour daily curfew imposed for sixteen months implicates that liberty interest even though the offender is subject to lifetime supervision.
2. Before imposing a curfew on a community-supervised-for-life offender who has lived in the community for some time, the Parole Board must provide reasonable notice and a meaningful opportunity to be heard.
3. A supervised offender seeking a testimonial hearing must deny the factual allegations, contest the conclusions drawn from them, or challenge the rationale for the curfew; when material factual disputes require credibility determinations, a hearing ordinarily is required.
4. An emergent curfew may be imposed before a hearing to protect public safety, but the offender must receive an opportunity to be heard, and when appropriate a hearing, within a reasonably brief period. Depending on the circumstances, due process may require access to evidence, presentation of witnesses and documentary evidence, and cross-examination subject to a recorded good-cause determination.

KEY QUOTATIONS

“We now hold that, despite Jamgochian's status as a community-supervised-for-life offender, the Parole Board was obliged to afford him the due process protections of notice and an opportunity to be heard, and that those minimal requirements were not met in this case.” (1064)

“Therefore, before a curfew can be imposed, due process demands that, in circumstances such as here, a supervised offender must be given reasonable notice and a meaningful opportunity to be heard.” (1075)

“At a minimum, a supervised offender must be provided reasonable notice and a meaningful opportunity to be heard.” (1077)

FACTUAL BACKGROUND

Jamgochian, a convicted sex offender subject to community supervision for life, was released from prison in 2001. In 2005, after he contacted a seventeen-year-old waitress about an unusually lucrative job and asked her to keep their conversations secret, the Parole Board imposed a daily curfew from 8:00 p.m. to 7:00 a.m., along with no-contact and counseling conditions. The curfew remained in effect for sixteen months, and the Board imposed and continued it without giving Jamgochian advance notice or a meaningful opportunity to respond.

PROCEDURAL HISTORY

The Parole Board imposed a curfew and other special conditions on Jamgochian while he was subject to community supervision for life. A two-member Board panel affirmed the conditions, and the full Board later concurred. The Appellate Division concluded that the curfew procedures violated due process and remanded. The Supreme Court affirmed, modifying the reasoning and defining the minimum process required for future curfews.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The judgment of the Appellate Division was affirmed as modified. The decision governs future curfews imposed on community-supervised-for-life offenders; no further relief concerning Jamgochian's expired curfew was ordered.

CASES CITED

- Sanchez v. N.J. State Parole Bd., 368 N.J. Super. 181, 184, 845 A.2d 687 (App. Div. 2004), appeal dismissed, 187 N.J. 487, 901 A.2d 951 (2006)
- Doe v. Poritz, 142 N.J. 1, 13, 15 n.1, 99, 106-08, 662 A.2d 367 (1995)
- McKune v. Lile, 536 U.S. 24, 33, 122 S. Ct. 2017, 153 L. Ed. 2d 47 (2002)
- Lewis v. Harris, 188 N.J. 415, 442, 908 A.2d 196 (2006)
- State ex rel. D.G.W., 70 N.J. 488, 501-03, 505-08, 361 A.2d 513 (1976)
- Morrissey v. Brewer, 408 U.S. 471, 480-84, 489, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972)
- Gagnon v. Scarpelli, 411 U.S. 778, 781-82 & n.3, 93 S. Ct. 1756, 36 L. Ed. 2d 656 (1973)
- Wolff v. McDonnell, 418 U.S. 539, 555-58, 563-64, 94 S. Ct. 2963, 41 L. Ed. 2d 935 (1974)
- Avant v. Clifford, 67 N.J. 496, 519 n.20, 525-33, 341 A.2d 629 (1975)
- Pazden v. N.J. State Parole Bd., 374 N.J. Super. 356, 370, 864 A.2d 1136 (App. Div. 2005)
- State v. Kunz, 55 N.J. 128, 144-46, 259 A.2d 895 (1969)