

SUPREME COURT OF NEW JERSEY

State v. Lisa, 194 N.J. 409

945 A.2d 690 (2008) · No. A-12, September Term 2007 · Decided April 22, 2008

SUMMARY

The Supreme Court of New Jersey affirmed dismissal of a reckless manslaughter charge against Michael Lisa because the State's grand-jury instruction relied on Restatement tort principles to establish an omission-based duty that did not provide adequate notice of potential criminal liability. The court held that the charge could be presented again to a grand jury based on the totality of Lisa's conduct, with proper instruction on the statutory recklessness standard.

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Per Curiam; Chief Justice Rabner; Justice Long; Justice LaVecchia; Justice Albin; Justice Wallace; Justice Hoens; Justice Rivera-Soto
JURISDICTION	New Jersey
DECIDED	April 22, 2008
DOCKET	A-12, September Term 2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	The State appealed from dismissal of a reckless-manslaughter charge. The Appellate Division affirmed, and the Supreme Court of New Jersey affirmed the dismissal.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of New Jersey; precedential.
PARTIES	State of New Jersey v. Michael Lisa

TOPICS

- criminal procedure
- grand jury
- due process
- statutory interpretation
- mens rea

PRACTICE AREAS

- criminal law
- criminal procedure
- constitutional law

QUESTIONS PRESENTED

1. Whether the State could use civil tort principles from the Restatement (Second) of Torts to establish the legal duty required for criminal omission liability under N.J.S.A. 2C:2-1(b)(2).
2. Whether dismissal of the reckless-manslaughter charge was required because the grand-jury instruction failed to provide constitutionally sufficient notice of the alleged criminal duty.
3. Whether the State could re-present the matter to a grand jury on a reckless-manslaughter theory based on the totality of the defendant's conduct and a proper recklessness instruction.

HOLDINGS

1. The Restatement (Second) of Torts did not provide sufficient notice of a legal duty to which a theory of criminal omission liability could attach under N.J.S.A. 2C:2-1(b)(2).
2. Dismissal of the reckless-manslaughter charge as presented to the grand jury was required because the instruction incorporating Restatement-based duty principles failed the fundamental due-process requirement of adequate notice.
3. The State could re-present a reckless-manslaughter charge based on the totality of the defendant's conduct, provided the grand jury received a proper instruction on recklessness.

KEY QUOTATIONS

“sufficient notice of potential criminal liability cannot be found in emanations from a scholarly treatise that has never made its way into New Jersey substantive criminal law, and perhaps not into our civil law either.” (194 N.J. at 411)

“In this case, the duty charged to the grand jury was based on amorphous concepts of the Restatement, as reflected in some civil cases, and thereby failed the fundamental test of due process notice.” (194 N.J. at 411)

“That said, there is no reason why this case cannot be re-presented to the grand jury on a charge of reckless manslaughter based on the totality of defendant's conduct.” (194 N.J. at 412)

FACTUAL BACKGROUND

Michael Lisa was with A.R., a seventeen-year-old girl, at his home during the evening before her death. A medical examiner attributed her death to multi-organ system failure caused by ingestion of ethanol and several drugs, including methadone, methamphetamine, amphetamine, and benzodiazepines. The State alleged that Lisa's conduct and failure to act supported reckless-manslaughter liability, and instructed the grand jury on duties drawn from the Restatement (Second) of Torts.

PROCEDURAL HISTORY

Lisa was indicted for reckless manslaughter. On Lisa's motion, the trial court dismissed the charge because the State's grand-jury instruction relied on civil tort principles to establish a legal duty supporting omission liability. A divided Appellate Division affirmed, and the Supreme Court affirmed, while permitting the State to re-present a properly instructed reckless-manslaughter charge.

DISPOSITION

affirmed

CASES CITED

- State v. Lisa, 391 N.J. Super. 556, 919 A.2d 145 (App. Div. 2007)

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