

SUPREME COURT OF PENNSYLVANIA

Commonwealth v. Lacombe; Commonwealth v. Witmayer

234 A.3d 602 (Pa. 2020) · No. Nos. 35 MAP 2018 and 64 MAP 2018 · Decided July 21, 2020

SUMMARY

This is a concurring and dissenting opinion by Justice Wecht of the Supreme Court of Pennsylvania in consolidated appeals involving the retroactive application of Subchapter I of Pennsylvania's Sex Offender Registration and Notification Act. Justice Wecht agrees that the courts had jurisdiction to consider the constitutional challenges but concludes that Subchapter I remains punitive in effect and therefore violates the federal and Pennsylvania Ex Post Facto Clauses when applied retroactively.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Wecht; Justice Donohue
JURISDICTION	Pennsylvania
DECIDED	July 21, 2020
DOCKET	Nos. 35 MAP 2018 and 64 MAP 2018
DISPOSITION	reversed
PROCEDURAL POSTURE	The Commonwealth appealed orders of the Montgomery County Court of Common Pleas granting the appellees' challenges to the retroactive application of Subchapter I of SORNA. Lacombe sought termination of his registration obligations; Witmayer pursued relief under the PCRA. The Supreme Court considered both the procedural jurisdiction issue and the constitutionality of Subchapter I under the Ex Post Facto Clauses.
STANDARD OF REVIEW	De novo review, with plenary scope, for the legal question whether retroactive Subchapter I violates the Ex Post Facto Clauses.
PRECEDENTIAL VALUE	published majority decision with a nonbinding concurring and dissenting opinion
PARTIES	Commonwealth of Pennsylvania v. Claude Lacombe, Michael Witmayer

TOPICS

ex post facto

criminal procedure

post-conviction relief

constitutional law

statutory interpretation

PRACTICE AREAS

constitutional law

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statutory interpretation

sex offender registration

QUESTIONS PRESENTED

1. Whether the courts had jurisdiction to consider challenges to Subchapter I through the procedural mechanisms used by Lacombe and Witmayer.
2. Whether the retroactive application of Subchapter I is punitive in effect under the Mendoza-Martinez factors and therefore violates the Ex Post Facto Clauses of the United States and Pennsylvania Constitutions.

HOLDINGS

1. The courts had jurisdiction to consider the constitutional challenges, and Lacombe was not required to pursue relief exclusively under the PCRA.
2. The General Assembly intended Subchapter I to establish a civil regulatory scheme rather than a punitive one.
3. Subchapter I remains punitive in effect because it imposes affirmative restraints, resembles historically recognized punishment, promotes deterrence and retribution, and is excessive in relation to its stated regulatory purpose.
4. Because Subchapter I is punitive in effect and applies retroactively to offenses committed before its enactment or operative date, its application to Lacombe and Witmayer violates the Ex Post Facto Clauses.

KEY QUOTATIONS

“Ex post facto analysis entails a two-part inquiry. The court must determine first whether, in enacting the challenged statute, the legislature intended to impose a punishment.” (at 28)

“When I weigh the factors, it becomes apparent that the General Assembly has not created a scheme that, in its effects, is non-punitive.” (at 47-48)

“The impact that subjection to Subchapter I will have on an offender’s life cannot be understated.” (at 48)

FACTUAL BACKGROUND

Claude Lacombe and Michael Witmayer committed sexual offenses before December 20, 2012, making them subject to retroactive Subchapter I of Pennsylvania's amended sexual-offender registration scheme. Lacombe sought termination of his reporting and registration requirements, while Witmayer filed a timely PCRA petition. Both challenged Subchapter I as an unconstitutional ex post facto law because of its registration, reporting, public-disclosure, and enforcement requirements.

PROCEDURAL HISTORY

Lacombe and Witmayer committed their triggering offenses before December 20, 2012 and were subject to retroactive Subchapter I registration requirements. The Montgomery County Court of Common Pleas granted relief on their ex post facto challenges. The Commonwealth appealed, and the Supreme Court consolidated the appeals. The majority concluded that the PCRA court had jurisdiction and that Subchapter I was not constitutionally punitive; Justice Wecht agreed with the jurisdictional ruling but dissented from the constitutional holding.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The majority's disposition reversed the Montgomery County Court of Common Pleas orders after holding that Subchapter I was not punitive and did not violate the Ex Post Facto Clauses. The dissent would have affirmed the lower courts' relief and invalidated retroactive Subchapter I as applied to the appellees.

CASES CITED

- Commonwealth v. Muniz, 164 A.3d 1189 (Pa. 2017) (plurality)
- Commonwealth v. Butler, 173 A.3d 1212 (Pa. Super. 2017)
- Commonwealth v. Butler, 226 A.3d 972 (Pa. 2020)
- Commonwealth v. Lee, 935 A.2d 865, 872, 883 (Pa. 2007)
- Commonwealth v. Donald Williams, 733 A.2d 593, 595-608 (Pa. 1999)
- Commonwealth v. Gomer Williams, 832 A.2d 962, 966-87 (Pa. 2003)
- Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013)
- Kennedy v. Mendoza-Martinez, 372 U.S. 144, 168-69 (1963)
- Smith v. Doe, 538 U.S. 84, 92, 97-105 (2003)
- Weaver v. Graham, 450 U.S. 24, 29-30 (1981)
- Calder v. Bull, 3 U.S. 386, 390 (1798)
- Commonwealth v. Perez, 97 A.3d 747, 763-66 (Pa. Super. 2014) (Donohue, J., concurring)
- Commonwealth v. Martinez, 147 A.3d 517, 523-24 (Pa. 2016)
- United States v. Ward, 448 U.S. 242, 249 (1980)
- Hudson v. United States, 522 U.S. 93, 99-100 (1997)
- Riley v. California, 573 U.S. 373, 385, 395 (2014)
- In re H.R., 2020 WL 1542422 (Pa. Apr. 1, 2020)