

SUPREME COURT OF SOUTH CAROLINA

In the Interest of Justin B.

405 S.C. 391 (2013) · Decided August 28, 2013

SUMMARY

The South Carolina Supreme Court considered whether lifetime electronic monitoring of a juvenile adjudicated delinquent for criminal sexual conduct with a minor violated the federal and state prohibitions against cruel and unusual punishment. The court held that electronic monitoring under South Carolina Code section 23-3-540 is a civil, nonpunitive regulatory requirement rather than punishment. However, it concluded that the juvenile must be afforded periodic judicial review to determine whether continued monitoring is necessary.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Chief Justice Toal; Toal; Beatty; Kittredge; Hearn; Pleicones
JURISDICTION	South Carolina
DECIDED	August 28, 2013
DISPOSITION	affirmed
PROCEDURAL POSTURE	A juvenile appealed a family court order requiring sex-offender registration and electronic monitoring after he pleaded guilty to criminal sexual conduct with a minor in the first degree. The Supreme Court of South Carolina certified the appeal pursuant to Rule 204(b), SCACR.
STANDARD OF REVIEW	Statutes are presumed constitutional and will be construed, if possible, to render them valid. A statute will not be declared unconstitutional unless its repugnance to the constitution is clear beyond a reasonable doubt, and the party challenging constitutionality bears the burden of proof.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Justin B. v. State of South Carolina

TOPICS

- cruel and unusual punishment
- constitutional law
- statutory interpretation
- criminal procedure

PRACTICE AREAS

constitutional law

juvenile delinquency

sex-offender registration and monitoring

QUESTIONS PRESENTED

1. Whether lifetime electronic monitoring under South Carolina Code sections 23-3-400 and 23-3-540 constitutes cruel and unusual punishment under the Eighth Amendment to the United States Constitution or Article I, section 15 of the South Carolina Constitution when applied to a juvenile.
2. Whether the electronic-monitoring requirement is a civil, nonpunitive regulatory obligation or a criminal punishment.
3. Whether the statutory scheme must provide periodic judicial review of the continued necessity of electronic monitoring.

HOLDINGS

1. Section 23-3-540's electronic-monitoring requirement is a civil, nonpunitive regulatory obligation rather than criminal punishment.
2. Although electronic monitoring is civil and nonpunitive, Justin B. must have access to periodic judicial review of the continued necessity of monitoring.

KEY QUOTATIONS

“Our determination of whether the electronic monitoring provisions of section 23-3-540 constitute cruel and unusual punishment rests primarily on whether electronic monitoring constitutes a punishment.” (405 S.C. at 395)

“We hold that Section 23-3-540’s electronic monitoring requirement is a civil obligation similar to other restrictions the state may lawfully place upon sex offenders.” (405 S.C. at 395-396)

“Application of the above factors demonstrates that section 23-3-540 is a civil remedy. Moreover, the practical effects of the remedy are non-punitive.” (405 S.C. at 409)

FACTUAL BACKGROUND

In May 2009, Justin B.'s adoptive mother witnessed him sexually molest his adoptive sister and notified police. He was indicted for criminal sexual conduct with a minor in the first degree, later pleaded guilty in family court, and was adjudicated delinquent. The family court committed him to the Department of Juvenile Justice until no later than his twenty-first birthday and required sex-offender registration and compliance with electronic monitoring that, under the statutory scheme, would otherwise continue for life.

PROCEDURAL HISTORY

Justin B. was indicted in general sessions court and, pursuant to a negotiated plea agreement, was transferred to family court. He admitted guilt, was adjudicated delinquent, committed to the Department of Juvenile Justice, and was ordered to register as a sex offender and comply with lifetime electronic-monitoring requirements under sections 23-3-460 and 23-3-540. He appealed, and the Supreme Court certified the case.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The family court's order was affirmed as modified to recognize Justin B.'s entitlement to periodic judicial review under section 23-3-540(H), including the ability to petition for review ten years after electronic monitoring begins.

CASES CITED

- Smith v. Doe, 538 U.S. 84 (2003)
- In re Ronnie A., 355 S.C. 407, 585 S.E.2d 311 (2003)
- State v. Walls, 348 S.C. 26, 558 S.E.2d 524 (2002)
- Kansas v. Hendricks, 521 U.S. 346 (1997)
- Kennedy v. Mendoza-Martinez, 372 U.S. 144 (1963)
- Doe v. Bredeesen, 507 F.3d 998 (6th Cir. 2007)
- United States v. Under Seal, 709 F.3d 257 (4th Cir. 2013)
- United States v. W.B.H., 664 F.3d 848 (11th Cir. 2011), cert. denied, 133 S. Ct. 524 (2012)
- Hudson v. United States, 522 U.S. 93 (1997)
- Hatton v. Bonner, 356 F.3d 955 (9th Cir. 2004)
- McKune v. Lile, 536 U.S. 24 (2002)
- State v. Dykes, 403 S.C. 499, 744 S.E.2d 505 (2013)
- Futch v. McAllister Towing of Georgetown, Inc., 335 S.C. 598, 518 S.E.2d 591 (1999)
- United States v. Kebodeaux, 570 U.S. 387 (2013)
- Curtis v. State, 345 S.C. 557, 549 S.E.2d 591 (2001)
- In re Lasure, 379 S.C. 144, 666 S.E.2d 228 (2008)
- In re Treatment of Luckabaugh, 351 S.C. 122, 568 S.E.2d 338 (2002)