

SUPREME JUDICIAL COURT OF MASSACHUSETTS

Roe v. Attorney General

434 Mass. 418 (2001) · Decided June 28, 2001

SUMMARY

The Massachusetts Supreme Judicial Court reviewed a preliminary injunction challenging the 1999 Massachusetts sex offender registration statute. The court held that requiring convicted sex offenders to provide their names and addresses before an individualized hearing, and transmitting that registration information to law enforcement, did not violate procedural due process under article 12 of the Massachusetts Declaration of Rights. The court vacated the preliminary injunction.

CASE DETAILS

COURT	Supreme Judicial Court of Massachusetts
WRITING FOR THE COURT	Sosman, J.; Cowin, J.; Marshall, C.J.
JURISDICTION	Massachusetts
DECIDED	June 28, 2001
DISPOSITION	vacated
PROCEDURAL POSTURE	Direct appeal from an order granting a preliminary injunction in a class action challenging the constitutionality of portions of Massachusetts's 1999 sex-offender-registration statute.
STANDARD OF REVIEW	The grant of a preliminary injunction is reviewed for abuse of discretion, including whether the judge applied the correct legal standards.
PRECEDENTIAL VALUE	Published precedential opinion of the Massachusetts Supreme Judicial Court
PARTIES	Attorney General and other defendants v. Roe and other named plaintiffs

TOPICS

- procedural due process
- due process
- constitutional law
- appellate procedure
- standard of review

PRACTICE AREAS

- constitutional law
- civil rights
- administrative law
- appellate procedure

QUESTIONS PRESENTED

1. Whether requiring convicted sex offenders to mail their names and current addresses to the Sex Offender Registry Board before an individualized hearing concerning present dangerousness violates procedural due process under article 12 of the Massachusetts Declaration of Rights.
2. Whether the board's transmission of registration information to law-enforcement agencies before an individualized hearing violates procedural due process.
3. Whether the Superior Court abused its discretion by granting a preliminary injunction based on the conclusion that preregistration and prehearing law-enforcement notification violated due process.

HOLDINGS

1. The statute may require convicted sex offenders to provide the board with their names and current home and work addresses before an individualized hearing.
2. The board may transmit an offender's registration information to law-enforcement agencies before the offender receives an individualized hearing because law-enforcement access does not, on this facial challenge, infringe a constitutionally protected liberty or privacy interest.
3. Speculative possibilities of police leaks, harassment, or improper use of registration information do not establish a facial due process violation.

KEY QUOTATIONS

“Procedural due process protection is triggered when governmental action interferes with liberty interests.”
(434 Mass. at 427)

“Public dissemination of information concerning offenders who pose a current risk of reoffense is permissible.” (434 Mass. at 428)

“Absent some infringement of a protected liberty interest, there is no deprivation that would trigger procedural due process concerns.” (434 Mass. at 431)

“There is no privacy interest at stake in the board’s transmitting to the police information to which the police already have access.” (434 Mass. at 440)

FACTUAL BACKGROUND

The challenged 1999 statute required persons convicted of specified sex offenses to provide the Sex Offender Registry Board with their names and current home and work addresses. Before the offender's individualized classification hearing, the board could transmit registration information to law-enforcement agencies, although public disclosure generally followed notice and an opportunity to be heard. The named plaintiffs included persons convicted of sex offenses before the statute's effective date, a probationer, and incarcerated offenders, all of whom were or would be subject to registration.

PROCEDURAL HISTORY

The plaintiffs filed a Superior Court class action seeking injunctive relief, arguing that the statute violated procedural due process by requiring registration and disclosure of registration information before an individualized hearing concerning present dangerousness. The Superior Court judge granted a preliminary injunction barring preregistration requirements absent an individualized evidentiary hearing, denied other requested relief, and the defendants appealed. The Supreme Judicial Court granted direct appellate review.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The order granting the preliminary injunction is vacated, and the case is remanded to the Superior Court for further proceedings consistent with the opinion.

CASES CITED

- Doe v. Attorney Gen. (No. 2), 425 Mass. 217 (1997)
- Packaging Indus. Group, Inc. v. Cheney, 380 Mass. 609 (1980)
- Opinion of the Justices, 423 Mass. 1201 (1996)
- Doe v. Attorney Gen. (No. 1), 425 Mass. 210 (1997)
- Doe v. Attorney Gen., 426 Mass. 136 (1997)
- Doe, Sex Offender Registry Bd. No. 972 v. Sex Offender Registry Bd., 428 Mass. 90 (1998)
- Doe v. Attorney Gen., 430 Mass. 155 (1999)
- Commonwealth v. Brown, 426 Mass. 475 (1998)
- Aime v. Commonwealth, 414 Mass. 667 (1993)
- Mathews v. Eldridge, 424 U.S. 319 (1976)
- Cafeteria & Restaurant Workers Union, Local 473 v. McElroy, 367 U.S. 886 (1961)
- Joint Anti-Fascist Refugee Comm. v. McGrath, 341 U.S. 123 (1951)
- Morrissey v. Brewer, 408 U.S. 471 (1972)
- Adoption of Holly, 432 Mass. 680 (2000)
- Andover v. State Fin. Servs., Inc., 432 Mass. 571 (2000)
- Tulsa Professional Collection Servs., Inc. v. Pope, 485 U.S. 478 (1988)
- Murphy v. Department of Correction, 429 Mass. 736 (1999)
- Landry v. Attorney Gen., 429 Mass. 336 (1999)
- Globe Newspaper Co. v. Fenton, 819 F. Supp. 89 (D. Mass. 1993)
- Lyons v. Globe Newspaper Co., 415 Mass. 258 (1993)
- National Ass'n of Gov't Employees, Inc. v. Central Broadcasting Corp., 379 Mass. 220 (1979), cert. denied, 446 U.S. 935 (1980)
- Doe v. Poritz, 142 N.J. 1 (1995)

- Doe v. Pataki, 3 F. Supp. 2d 456 (S.D.N.Y. 1998)
- In re Maricopa County Juvenile Action No. JV-132744, 188 Ariz. 180 (Ct. App. 1996)
- Vaccaro v. Vaccaro, 425 Mass. 153 (1997)

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