

SUPREME COURT OF PENNSYLVANIA

Commonwealth v. Davidson

595 Pa. 1 (Pa. 2007) (Pa. 2007) · Decided November 20, 2007

SUMMARY

The Supreme Court of Pennsylvania considered whether 18 Pa.C.S. § 6312(d), governing possession of child pornography, was unconstitutionally vague or overbroad. The court also addressed whether the statute permitted separate counts and punishments for each item of child pornography possessed. It held that the statute was constitutional, that separate counts and sentences were authorized, and affirmed the Superior Court.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Castille; Chief Justice Cappy; Justice Nigro; Justice Newman; Justice Saylor; Justice Eakin; Justice Baer
JURISDICTION	Pennsylvania
DECIDED	November 20, 2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	Davidson appealed from his convictions and sentences for 28 counts of sexual abuse of children under 18 Pa.C.S. § 6312(d). The Superior Court affirmed, and the Supreme Court of Pennsylvania granted further review.
STANDARD OF REVIEW	The issues were questions of law, reviewed under a plenary scope and de novo standard.
PRECEDENTIAL VALUE	published binding precedent
PARTIES	Joseph Henry Paul Davidson v. Commonwealth of Pennsylvania

TOPICS

- criminal procedure
- constitutional law
- void for vagueness
- overbreadth doctrine
- statutory interpretation

PRACTICE AREAS

- criminal law
- criminal procedure
- constitutional law
- statutory interpretation
- sentencing

QUESTIONS PRESENTED

1. Whether 18 Pa.C.S. § 6312(d), including the statutory definition of prohibited sexual act in § 6312(a), is unconstitutionally vague under the Pennsylvania and United States Constitutions.
2. Whether § 6312(d) is unconstitutionally overbroad under the Pennsylvania and United States Constitutions.
3. Whether the General Assembly intended possession of each individual child-pornography depiction to constitute a separate offense subject to separate prosecution, conviction, and punishment.
4. Whether multiple convictions and sentences for possession of individual child-pornography depictions violate double jeopardy or Pennsylvania's sentencing-merger doctrine.

HOLDINGS

1. Section 6312(d), including the qualifier that nudity must be depicted for the purpose of sexual stimulation or gratification, is not unconstitutionally vague under Article I, § 9 of the Pennsylvania Constitution or the Fourteenth Amendment.
2. Section 6312(d) is not unconstitutionally overbroad under Article I, § 7 of the Pennsylvania Constitution or the First Amendment.
3. The General Assembly intended possession of each individual child-pornography image or depiction to constitute a separate criminal act under § 6312(d), permitting separate prosecution, conviction, and punishment for each depiction. Multiple convictions and sentences in this case did not violate double jeopardy or the sentencing-merger doctrine.

KEY QUOTATIONS

“Far from making the definition of “prohibited sexual act” vague, the qualifier to the term “nudity” actually clarifies and refines the reach of the statute, thus guarding against unfair and arbitrary enforcement of Section 6312(d).” (at 213)

“We also find that Section 6312(d) is not unconstitutionally overbroad under Article I, Section 7 of the Pennsylvania Constitution or under the First Amendment.” (at 215)

“In summary, we hold that charging, trying, convicting and sentencing appellant for multiple counts of possession of child pornography is not unlawful under the statute.” (at 221)

“Appellant is not entitled to a volume discount.” (at 221)

FACTUAL BACKGROUND

Law enforcement obtained Davidson's name and credit-card information from records seized in an investigation of an Internet child-pornography business. After Davidson consented to an initial computer search, officers seized his computer and obtained a warrant. A forensic examination found more than 1,300 child-pornography images, including images identified in a National Center for Missing and Exploited Children database. Davidson was convicted of possessing 28 prohibited depictions.

PROCEDURAL HISTORY

A nonjury trial resulted in 28 convictions after Davidson was charged with possessing child pornography. The trial court imposed concurrent terms of imprisonment and probation, along with collateral conditions. The Superior Court affirmed the judgment of sentence, rejecting Davidson's sufficiency, weight, vagueness, overbreadth, and merger or double-jeopardy claims. The Supreme Court of Pennsylvania affirmed the Superior Court.

DISPOSITION

affirmed

CASES CITED

- Commonwealth v. Savich, 716 A.2d 1251 (Pa. Super. Ct. 1998), allocatur denied, 738 A.2d 457 (Pa. 1999)
- New York v. Ferber, 458 U.S. 747 (1982)
- Osborne v. Ohio, 495 U.S. 103 (1990)
- Kolender v. Lawson, 461 U.S. 352 (1983)
- Commonwealth v. Cotto, 753 A.2d 217 (Pa. 2000)
- Commonwealth v. Anderson, 650 A.2d 20 (Pa. 1994)
- Commonwealth v. Gatling, 807 A.2d 890 (Pa. 2002)
- Commonwealth v. Koehler, 914 A.2d 427 (Pa. Super. Ct. 2006)
- Bell v. United States, 349 U.S. 81 (1955)
- United States v. Esch, 832 F.2d 531 (10th Cir. 1987)
- Commonwealth v. Duda, 923 A.2d 1138 (Pa. 2007)
- United States v. Reedy, 304 F.3d 358 (5th Cir. 2002)
- State v. Muhlenbruch, 728 N.W.2d 212 (Iowa 2007)