

SUPREME COURT OF NEW HAMPSHIRE

State v. Chrisicos, 158 N.H. 82

960 A.2d 345 (2008) · No. No. 2008-135 · Decided November 7, 2008

SUMMARY

The Supreme Court of New Hampshire reviewed a challenge to the constitutionality of RSA 262:23, which permits home confinement for certain habitual-offender sentences where the applicable county correctional facility has a home confinement program. The court held that the statute did not violate equal protection under either the New Hampshire or United States Constitution, reversed the trial court's constitutional ruling, and affirmed the defendant's sentence.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Hicks, J.; Broderick, C.J.; Dalianis, J.; Duggan, J.; Galway, J.
JURISDICTION	New Hampshire
DECIDED	November 7, 2008
DOCKET	No. 2008-135
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The defendant appealed her sentencing order, and the State cross-appealed the superior court's ruling that RSA 262:23 violated the Equal Protection Clause of the New Hampshire Constitution. The State's cross-appeal was treated as a petition for writ of certiorari.
STANDARD OF REVIEW	The constitutional validity of a statute is reviewed de novo. Under the State Constitution's Equal Protection Clause, absent infringement of a fundamental or important substantive right or application of a recognized suspect classification, the court applies rational-basis review. On certiorari, the court reviews whether another tribunal acted illegally, exceeded its jurisdiction or authority, violated the law, or exercised discretion unsustainably, arbitrarily, or capriciously.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of New Hampshire
PARTIES	Michelle Chrisicos v. State of New Hampshire

TOPICS

equal protection

rational basis review

constitutional law

sentencing

writ of certiorari

PRACTICE AREAS

constitutional law

criminal sentencing

appellate procedure

QUESTIONS PRESENTED

1. Whether RSA 262:23, which permits home confinement only where the applicable county correctional facility has a home-confinement program, violates the Equal Protection Clause of the New Hampshire Constitution.
2. Whether the same statutory classification violates the Federal Equal Protection Clause.
3. Whether the defendant was eligible for home confinement for concurrent sentences arising from two habitual-offender violations.

HOLDINGS

1. RSA 262:23, I, does not violate the New Hampshire Constitution's Equal Protection Clause because allowing each county to determine whether to establish a home-confinement program is rationally related to conceivable legitimate governmental interests, including cost-benefit evaluation and correctional-cost savings.
2. RSA 262:23, I, does not violate the Federal Equal Protection Clause under the same rational-basis analysis applied under the New Hampshire Constitution.
3. The court did not decide whether RSA 262:23 permits home confinement for a defendant sentenced on two concurrent habitual-offender violations; it assumed, without deciding, that the defendant was eligible and resolved the appeal on the constitutional issue.

KEY QUOTATIONS

“We conclude that it is not inconceivable that the legislature could have intended to allow each county to undertake a separate cost-benefit analysis with respect to a home confinement program. We also cannot conclude that such a purpose is irrational.” (at 350)

“Here, the defendant is treated no differently than any other defendant convicted in Hillsborough County of violating RSA 262:23, I, for no such defendant is eligible for home confinement.” (at 351)

FACTUAL BACKGROUND

Chrisicos was indicted for driving while deemed a habitual offender on August 15, 2006, and was indicted for a second violation on November 21, 2006. She pleaded guilty to both charges under a capped plea agreement and sought a House of Corrections sentence with deferred execution and electronic monitoring or home arrest. Because Hillsborough County lacked a home-confinement program, the superior court imposed concurrent twelve-month stand-committed sentences and ruled that RSA 262:23 was facially unconstitutional.

PROCEDURAL HISTORY

Chrisicos pleaded guilty to two habitual-offender driving violations under RSA 262:23 pursuant to a capped plea agreement. The Superior Court sentenced her to concurrent twelve-month terms in the House of Corrections and ruled that RSA 262:23 was facially unconstitutional, although it concluded that she was not eligible for home confinement on the second indictment. The Supreme Court of New Hampshire accepted the State's certiorari petition, reversed the constitutional ruling, and affirmed the sentence.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The opinion states that the trial court's constitutional ruling is reversed and the defendant's sentence is affirmed consistent with *State v. Campbell*. No additional remand instructions are specified.

CASES CITED

- *State v. Campbell*, 152 N.H. 515, 880 A.2d 397 (2005)
- *Britton v. Town of Chester*, 134 N.H. 434, 441, 595 A.2d 492 (1991)
- *State v. Porelle*, 149 N.H. 420, 422, 822 A.2d 562 (2003)
- *Petition of N.H. Bar Assoc.*, 151 N.H. 112, 113, 115, 855 A.2d 450 (2004)
- *Petition of State of N.H. (State v. Marcoux)*, 154 N.H. 118, 121, 908 A.2d 155 (2006)
- *Gonya v. Comm'r, N.H. Ins. Dep't*, 153 N.H. 521, 524, 899 A.2d 278 (2006)
- *State v. Ball*, 124 N.H. 226, 231-33, 471 A.2d 347 (1983)
- *In re Sandra H.*, 150 N.H. 634, 637-38, 846 A.2d 513 (2004)
- *Verizon New England v. City of Rochester*, 156 N.H. 624, 630-31, 940 A.2d 237 (2007)
- *FCC v. Beach Communications, Inc.*, 508 U.S. 307, 315 (1993)
- *Opinion of the Justices (Misdemeanor Trial De Novo)*, 135 N.H. 549, 553-54, 608 A.2d 874 (1992)
- *Appeal of Salem Regional Med. Ctr.*, 134 N.H. 207, 215, 590 A.2d 602 (1991)
- *Salsburg v. Maryland*, 346 U.S. 545, 551-52 (1954)
- *Missouri v. Lewis*, 101 U.S. 22, 30 (1879)
- *State v. Little*, 116 Wash. App. 346, 66 P.3d 1099, 1100-01 (2003)
- *Lomont v. State*, 852 N.E.2d 1002, 1007 (Ind. Ct. App. 2006)

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