

SUPREME COURT OF VERMONT

State of Vermont v. George Dean Martin; State of Vermont v. Mark Watkins, Richard Washington, Joey Thibault, Raymond St. Peter, Steven Martin, Michael Lewis, Travis Lamberton, Dennis Barbour and Joseph Williams, 2008 VT 53

955 A.2d 1144 (2008) · No. Nos. 06-119, 06-205 · Decided May 2, 2008

SUMMARY

The Vermont Supreme Court considered whether requiring convicted nonviolent felons to provide DNA samples under 20 V.S.A. §§ 1931–1946 violated Chapter I, Article 11 of the Vermont Constitution. The court held that the DNA-sampling statute served special needs beyond ordinary law enforcement and that the sampling, analysis, and database procedures were constitutionally permissible. It affirmed the Addison District Court's order compelling George Dean Martin to provide a sample and reversed the Chittenden District Court's contrary judgment.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Reiber, C.J.; Dooley, J.; Johnson, J.; Burgess, J.; Devine, D.J., specially assigned
JURISDICTION	Vermont
DECIDED	May 2, 2008
DOCKET	Nos. 06-119, 06-205
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Consolidated appeals from orders of the Addison and Chittenden District Courts on motions to compel convicted felons to provide DNA samples under Vermont's DNA database statute.
STANDARD OF REVIEW	De novo review of the constitutional question, which is a question of law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	George Dean Martin, Mark Watkins, Richard Washington, Joey Thibault, Raymond St. Peter, Steven Martin, Michael Lewis, Travis Lamberton, Dennis Barbour, Joseph Williams, State of Vermont v.

State of Vermont, George Dean Martin, Mark Watkins, Richard Washington, Joey Thibault, Raymond St. Peter, Steven Martin, Michael Lewis, Travis Lamberton, Dennis Barbour, Joseph Williams

TOPICS

fourth amendment

search and seizure

criminal procedure

constitutional law

statutory interpretation

PRACTICE AREAS

constitutional law

criminal procedure

privacy and data protection

statutory interpretation

QUESTIONS PRESENTED

1. Whether Vermont's DNA database statute, as applied to convicted nonviolent felons, violates Chapter I, Article 11 of the Vermont Constitution.
2. Whether warrantless and suspicionless DNA sampling, analysis, storage, and searching may be upheld under Article 11's special-needs doctrine.
3. Whether the statute's application to nonviolent felons is sufficiently connected to the State's interests in crime investigation, deterrence, exoneration, and identification of missing persons.

HOLDINGS

1. The taking of a DNA sample and the subsequent analysis, storage, and searching of the resulting DNA profile are governmental intrusions subject to scrutiny under Chapter I, Article 11 of the Vermont Constitution.
2. DNA sampling and analysis under the statute serve special needs beyond normal law enforcement because they create a database for future identification, detection, exclusion, and identification of missing persons rather than immediately gathering evidence against a particular individual for a specific crime.
3. The statute does not violate Article 11 as applied to nonviolent felons because the State's interests in accurate identification, exoneration of innocent persons, identification of missing persons, and deterrence outweigh the minimal intrusion caused by collection and use of the statutorily limited DNA profile.
4. The statute may constitutionally require DNA samples from nonviolent felons, whether incarcerated or not, because the statutory objectives extend beyond identifying perpetrators of violent crimes and the effectiveness of sampling need not be high in percentage terms when the governmental objective is significant and the intrusion is limited.

KEY QUOTATIONS

"Whatever the evolving federal standard, when interpreting Article Eleven, this Court will abandon the warrant and probable-cause requirements, which constitute the standard of reasonableness for a government search that the Framers established, only in those exceptional circumstances in which special needs, beyond

the normal need for law enforcement, make the warrant and probable-cause requirement impracticable.” (at 1148-1149)

“In summary, we conclude that the DNA sampling statute does not offend Article 11 as applied to nonviolent felons, whether they are incarcerated or not. The statute serves special needs beyond normal law enforcement and advances important state interests that outweigh the minimal intrusions upon protected interests.” (at 1158-1159)

FACTUAL BACKGROUND

Vermont's DNA database statute requires persons convicted of designated crimes, including all felonies after a 2005 amendment, to provide DNA samples for analysis and inclusion in state and federal databases. The defendants were convicted of various nonviolent felonies and refused to provide samples. The statute requires collection by the least intrusive scientifically reliable method, limits authorized uses, requires confidentiality, and provides for destruction or expungement in specified circumstances.

PROCEDURAL HISTORY

The Addison District Court granted the State's motion to compel George Dean Martin to provide a DNA sample and rejected Fourth Amendment and Vermont Constitution Article 11 challenges. The Chittenden District Court denied the State's motion to compel the other defendants and dismissed the proceedings, concluding that applying the amended statute to nonviolent felons violated Article 11. The Supreme Court of Vermont affirmed the Addison judgment and reversed the Chittenden judgment.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Chittenden District Court judgment was reversed; the Addison District Court judgment was affirmed. The opinion does not state additional remand instructions.

CASES CITED

- State v. Record, 150 Vt. 84, 548 A.2d 422 (1988)
- State v. Berard, 154 Vt. 306, 576 A.2d 118 (1990)
- State v. Welch, 160 Vt. 70, 624 A.2d 1105 (1992)
- State v. Lockwood, 160 Vt. 547, 632 A.2d 655 (1993)
- In re R.H., 171 Vt. 227, 762 A.2d 1239 (2000)
- State v. Wigg, 2007 VT 48, 181 Vt. 639, 928 A.2d 494 (mem.)
- State v. O'Hagen, 189 N.J. 140, 914 A.2d 267 (2007)
- Nicholas v. Goord, 430 F.3d 652 (2d Cir. 2005)
- United States v. Amerson, 483 F.3d 73 (2d Cir. 2007)

- Illinois v. Lidster, 540 U.S. 419 (2004)
- Ferguson v. City of Charleston, 532 U.S. 67 (2001)
- City of Indianapolis v. Edmond, 531 U.S. 32 (2000)
- Jones v. Murray, 962 F.2d 302 (4th Cir. 1992)
- State v. Bauder, 2007 VT 16, 181 Vt. 392, 924 A.2d 38
- State v. Savva, 159 Vt. 75, 616 A.2d 774 (1992)
- United States v. Weikert, 504 F.3d 1 (1st Cir. 2007)

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