

SUPREME JUDICIAL COURT OF MASSACHUSETTS

Commonwealth v. Dalton

467 Mass. 555 (2014) · Decided March 17, 2014

SUMMARY

The Massachusetts Supreme Judicial Court held that a judge may not relieve a defendant of the obligation to register as a sex offender under G. L. c. 6, § 178E (f), when the defendant has been convicted of a sex offense involving a child. The court concluded that the statutory phrase “may not” prohibits judicial discretion in those circumstances and remanded for the registration order to be vacated and for the defendant to be informed of the duty to register.

CASE DETAILS

COURT	Supreme Judicial Court of Massachusetts
WRITING FOR THE COURT	Gants, J.
JURISDICTION	Massachusetts
DECIDED	March 17, 2014
DISPOSITION	remanded
PROCEDURAL POSTURE	The Commonwealth sought relief from a Superior Court judge's order relieving the defendant of the obligation to register as a sex offender. The Commonwealth filed a petition under G. L. c. 211, § 3; the single justice reserved and reported the petition to the full Supreme Judicial Court.
STANDARD OF REVIEW	De novo review of the statutory interpretation issue.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Commonwealth v. Dalton

TOPICS

- statutory interpretation
- plain meaning rule
- rule of lenity
- criminal procedure
- administrative law

PRACTICE AREAS

- criminal law
- criminal procedure
- statutory interpretation
- sex-offender registration
- administrative law

QUESTIONS PRESENTED

1. Whether G. L. c. 6, § 178E (f), permits a judge to relieve a defendant of the obligation to register as a sex offender when the defendant was not sentenced to immediate confinement but was convicted of a sex offense involving a child.
2. Whether the phrase "may not" in § 178E (f) grants judicial discretion or instead prohibits the judge from making the determination necessary to relieve the defendant from registration.

HOLDINGS

1. A judge may not relieve a defendant of the obligation to register as a sex offender when the defendant has been convicted of a sex offense involving a child, even if the defendant was not sentenced to immediate confinement and the circumstances otherwise suggest a low risk of reoffense or danger to the public.

KEY QUOTATIONS

"Therefore, we see no distinction between the words "shall not" and "may not" in terms of their practical consequence. Neither allows the exercise of discretion." (467 Mass. at 559)

"where, as here, a defendant is convicted of a sex offense involving a child, the language of § 178E (f) clearly prohibits a judge from making the determination that "the circumstances of the offense in conjunction with the offender's criminal history indicate that the sex offender does not pose a risk of reoffense or a danger to the public," and thereby prohibits a judge from relieving the defendant of the obligation to register with SORB." (467 Mass. at 558)

FACTUAL BACKGROUND

The defendant, age twenty-one, was convicted of statutory rape under G. L. c. 265, § 23, based on sexual conduct with a fourteen-year-old girl. He was not sentenced to immediate confinement but received six years of probation with special conditions. The Superior Court judge found that the circumstances and the defendant's limited criminal history did not indicate that he posed a risk of reoffense or danger to the public, but granted relief from registration despite the statutory bar applicable to sex offenses involving a child.

PROCEDURAL HISTORY

After a jury-waived trial, the defendant was convicted of statutory rape and sentenced to six years of probation. The Superior Court judge granted the defendant's motion for relief from sex-offender registration, concluding that G. L. c. 6, § 178E (f), permitted discretion to grant relief even for a conviction involving a child. The Commonwealth petitioned for relief, and the single justice reserved and reported the matter to the full court.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The case was remanded to the single justice with instructions to vacate the Superior Court judge's order relieving the defendant of the obligation to register and to remand the case to the Superior Court for a further hearing so that the defendant could be informed, in accordance with G. L. c. 6, § 178E (c), of his duty to register as a sex offender.

CASES CITED

- Commonwealth v. Boe, 456 Mass. 337, 347 (2010)
- James J. Welch & Co. v. Deputy Commissioner of Capital Planning & Operations, 387 Mass. 662, 666 (1982)
- Commonwealth v. Ventura, 465 Mass. 202, 212 (2013)
- Doe, Sex Offender Registry Board No. 151564 v. Sex Offender Registry Board, 456 Mass. 612, 618 (2010)
- Commonwealth v. Wotan, 422 Mass. 740, 742 (1996)
- Commonwealth v. Domino, 465 Mass. 569, 582 (2013)
- Roe v. Attorney General, 434 Mass. 418, 424 n.13 (2001)
- School Committee of Greenfield v. Greenfield Education Association, 385 Mass. 70, 81 (1982)
- Edwards, petitioner, 464 Mass. 454, 462-463 (2013)
- Commonwealth v. Tim T., 437 Mass. 592, 597 (2002)