

SUPREME COURT OF VERMONT

State v. Dean A. Lovejoy

Lovejoy, 2026 VT 26 (Vt. 2026) · No. 25-AP-129 · Decided June 18, 2026

SUMMARY

The Vermont Supreme Court affirmed Dean A. Lovejoy’s jury conviction for lewd or lascivious conduct with a child under 13 V.S.A. § 2602(a)(1). The Court held that sufficient circumstantial evidence supported the jury’s findings regarding the lewd nature of the conduct and Lovejoy’s requisite intent. It also held that open and gross lewdness under 13 V.S.A. § 2601a(a) is not a lesser-included offense of the charged crime.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Eaton, J.; Reiber, C.J.; Waples, J.; Drescher, J.; Arms, Supr. J., specially assigned
JURISDICTION	Vermont Supreme Court
DECIDED	June 18, 2026
DOCKET	25-AP-129
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed his jury conviction for lewd or lascivious conduct with a child, challenging the denial of his motions for judgment of acquittal and the denial of a requested lesser-included-offense instruction.
STANDARD OF REVIEW	The Court applies the same standard as the trial court when reviewing a motion for judgment of acquittal, viewing the evidence in the light most favorable to the State and granting acquittal only when there is no evidence to support a guilty verdict. Whether an offense is lesser included is determined by comparing statutory elements.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Vermont.
PARTIES	Dean A. Lovejoy v. State of Vermont

TOPICS

- criminal procedure
- evidence
- statutory interpretation
- appellate procedure
- standard of review

PRACTICE AREAS

criminal law

criminal procedure

appellate law

evidence

statutory interpretation

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support defendant's conviction under 13 V.S.A. § 2602(a)(1), including the requirements that the act be lewd and committed with the requisite sexual intent.
2. Whether open and gross lewdness under 13 V.S.A. § 2601a(a) is a lesser-included offense of lewd or lascivious conduct with a child under 13 V.S.A. § 2602(a)(1).

HOLDINGS

1. The evidence was sufficient for a rational jury to find beyond a reasonable doubt that defendant committed a lewd act upon the child with the intent to arouse, appeal to, or gratify sexual desires.
2. Open and gross lewdness under 13 V.S.A. § 2601a(a) is not a lesser-included offense of § 2602(a)(1), so the trial court properly refused to give the requested instruction.

KEY QUOTATIONS

“Accordingly, we will “grant a judgment of acquittal only when there is no evidence to support a guilty verdict.”” (¶ 7)

“An offense will be treated as a lesser-included offense only if proof of the greater offense necessarily means the lesser offense has also been proven.” (¶ 23)

“if the Legislature had intended the State to prove under § 2602[(a)(1)] that a defendant’s lewd acts against a child were open and gross, it would have expressly stated so” (¶ 34)

“the statute is aimed at preventing the sexual exploitation of children, irrespective of whether that exploitation is done openly or secretly.” (¶ 38)

FACTUAL BACKGROUND

The victim, defendant's nine-year-old stepdaughter, testified that defendant repeatedly touched, rubbed, squeezed, and grabbed her buttocks beneath her pants and underwear during 2018 and 2019, often when they were alone. She also described defendant touching her legs, thighs, hips, and knees and withdrawing his hand when her mother approached. Defendant initially denied touching her but later admitted touching her buttocks and legs, acknowledged that the conduct was wrong and crossed a boundary, and testified that he intended only to comfort her.

PROCEDURAL HISTORY

The State charged defendant under 13 V.S.A. § 2602(a)(1). After a jury trial, defendant was convicted in July 2024. The trial court denied his motions for judgment of acquittal and his requests to instruct the jury on open and gross lewdness under 13 V.S.A. § 2601a(a). Defendant timely appealed, and the Vermont Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Anderkin, 145 Vt. 240, 243, 487 A.2d 142, 143 (1984)
- In re A.P., 2020 VT 86, ¶¶ 10, 12, 16, 19-20, 58, 213 Vt. 291, 246 A.3d 399
- State v. Cameron, 2016 VT 134, ¶ 5, 204 Vt. 52, 163 A.3d 545
- State v. Davis, 2018 VT 33, ¶ 14, 207 Vt. 346, 186 A.3d 1088
- State v. Perrault, 2017 VT 67, ¶ 30, 205 Vt. 235, 173 A.3d 335
- State v. Downing, 2020 VT 97, ¶ 14, 213 Vt. 643, 245 A.3d 758
- State v. Bourgoign, 2021 VT 15, ¶ 8, 214 Vt. 483, 254 A.3d 217
- State v. Cole, 150 Vt. 453, 456, 554 A.2d 253, 255 (1988)
- State v. Welch, 159 Vt. 272, 276, 617 A.2d 427, 430 (1992)
- State v. Squiers, 2006 VT 26, ¶¶ 11-12, 179 Vt. 388, 896 A.2d 80
- State v. Hoch, 2011 VT 4, ¶ 13, 189 Vt. 560, 18 A.3d 562 (mem.)
- State v. Gibney, 2003 VT 26, ¶ 14, 175 Vt. 180, 825 A.2d 32
- State v. Delisle, 162 Vt. 293, 301, 648 A.2d 632, 637 (1994)
- State v. Bean, 2016 VT 73, ¶ 7, 202 Vt. 361, 149 A.3d 487
- State v. Corliss, 168 Vt. 333, 338, 721 A.2d 438, 443 (1998)
- State v. Russo, 2004 VT 103, ¶¶ 17, 21, 177 Vt. 394, 864 A.2d 655
- State v. Beaudoin, 2008 VT 133, ¶¶ 30, 32-38, 185 Vt. 164, 970 A.2d 39
- State v. Hale, 2021 VT 18, ¶ 9, 214 Vt. 296, 256 A.3d 595
- State v. DeRosa, 161 Vt. 78, 80, 633 A.2d 277, 279 (1993)
- State v. Phillips, 2018 VT 85, ¶ 17, 208 Vt. 145, 195 A.3d 1099
- State v. Penn, 2003 VT 110, ¶¶ 12-13, 176 Vt. 565, 845 A.2d 313 (mem.)
- State v. Morrill, 2025 VT 19, ¶ 12, 336 A.3d 430
- In re K.A., 2016 VT 52, ¶¶ 21, 25, 202 Vt. 86, 147 A.3d 81
- State v. Read, 165 Vt. 141, 147, 680 A.2d 944, 948 (1996)
- In re H.H., 2020 VT 107, ¶ 26, 214 Vt. 1, 251 A.3d 560
- State v. Memoli, 2011 VT 15, ¶ 33, 189 Vt. 237, 18 A.3d 567
- State v. Discola, 2018 VT 7, ¶ 20, 207 Vt. 216, 184 A.3d 1177
- In re A.C., 2012 VT 30, ¶ 21, 191 Vt. 615, 48 A.3d 595 (mem.)
- State v. Benoit, 158 Vt. 359, 361, 609 A.2d 230, 231 (1992)
- Notte v. Rutland R. Co., 112 Vt. 305, 308, 23 A.2d 626, 627 (1942)

