

SUPREME JUDICIAL COURT OF MASSACHUSETTS

Commonwealth v. Grant

455 Mass. 1022 (2010) · Decided January 13, 2010

SUMMARY

The Massachusetts Supreme Judicial Court dismissed the Commonwealth’s appeal as moot after a subsequent petition to commit the defendant as a sexually dangerous person was dismissed when qualified examiners reported that he was not sexually dangerous. The court declined to decide whether a history and anticipated future commission of noncontact sexual offenses could support commitment, reserving related statutory and constitutional questions for a live controversy.

CASE DETAILS

COURT	Supreme Judicial Court of Massachusetts
JURISDICTION	Massachusetts
DECIDED	January 13, 2010
DISPOSITION	dismissed
PROCEDURAL POSTURE	The Commonwealth appealed from the Superior Court's October 2006 amended judgment and order of discharge in a sexually dangerous person proceeding. The Supreme Judicial Court granted further appellate review, but the appeal became moot after the Commonwealth's later petition to commit the defendant was dismissed.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Commonwealth v. Grant

TOPICS

- mootness
- appellate procedure
- criminal procedure
- constitutional law

PRACTICE AREAS

- appellate procedure
- criminal procedure
- constitutional law
- sexually dangerous person commitment

QUESTIONS PRESENTED

- Whether the Commonwealth's appeal from the 2006 amended judgment and order of discharge was moot after the Commonwealth's later sexually dangerous person petition was dismissed.

2. Whether the court should decide the moot appeal under the exception for issues capable of repetition yet evading review.
3. Whether a person may be found sexually dangerous based on a history of noncontact sexual offenses and a likelihood of committing only noncontact offenses in the future, and whether such a statutory construction would be constitutional.

HOLDINGS

1. The dismissal of the 2009 petition rendered the Commonwealth's appeal from the 2006 judgment and order of discharge moot because the sexually dangerous person proceeding concerns the individual's present condition, and the Commonwealth could not prove current sexual dangerousness after both qualified examiners reported that the defendant was not sexually dangerous.
2. The court declined to decide the moot appeal under the capable-of-repetition exception because the issue would not necessarily evade appellate review and the court should avoid unnecessarily deciding significant constitutional questions in the absence of a live controversy.
3. The court did not decide whether G. L. c. 123A permits a finding of sexual dangerousness based solely on a history of noncontact sexual offenses and the likelihood of future noncontact offenses, or whether such a construction would be constitutional.

KEY QUOTATIONS

“The focus of a sexually dangerous person proceeding — whether it is based on the Commonwealth’s petition to commit an individual pursuant to G. L. c. 123A, § 12, or on an individual’s petition for discharge under G. L. c. 123A, § 9 — is the person’s present condition.” (1023)

“We decline the Commonwealth’s invitation to decide the appeal notwithstanding its mootness.” (1023)

“Nothing in our disposition should be read as an indorsement of the Appeals Court’s decision on that point.” (1024)

FACTUAL BACKGROUND

The defendant had multiple convictions for open and gross lewdness and was on probation for a 2003 conviction when he was arrested again in 2007. In 2008, as his sentence on the 2003 conviction approached release, the Commonwealth filed a new petition seeking his commitment as a sexually dangerous person. Two qualified examiners reported in 2009 that he was not sexually dangerous, and the resulting petition was dismissed without opposition, leaving the Commonwealth unable to meet its burden of proving current sexual dangerousness.

PROCEDURAL HISTORY

The Superior Court entered an amended judgment and order of discharge in October 2006. The Appeals Court decided the case, after which the Supreme Judicial Court granted further appellate review. While the appeal was pending, the Commonwealth filed a new sexually dangerous person petition; two qualified examiners reported that the defendant was not sexually dangerous, and the 2009 petition was dismissed. The Supreme Judicial Court dismissed the Commonwealth's appeal as moot.

DISPOSITION

dismissed

CASES CITED

- Johnstone, petitioner, 453 Mass. 544, 552 (2009)
- Dutil, petitioner, 437 Mass. 9, 16 (2002)
- Lockhart v. Attorney Gen., 390 Mass. 780, 783-784 (1983)
- Kansas v. Crane, 534 U.S. 407 (2002)
- Kansas v. Hendricks, 521 U.S. 346 (1997)

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