

SUPREME COURT OF GEORGIA

Santos v. State, 284 Ga. 514

668 S.E.2d 676 (2008) · No. S08A1296 · Decided October 27, 2008

SUMMARY

The Supreme Court of Georgia held that Georgia's sex offender registration statute, OCGA § 42-1-12, was unconstitutionally vague as applied to homeless sex offenders who lacked a street or route address. The court reversed the denial of William Santos's motion to quash the indictment, while clarifying that homeless offenders remained subject to other registration requirements.

CASE DETAILS

|                       |                                                                                                                                                                                               |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Georgia                                                                                                                                                                      |
| WRITING FOR THE COURT | Thompson, Justice; Carley, Justice; all other Justices                                                                                                                                        |
| JURISDICTION          | Georgia                                                                                                                                                                                       |
| DECIDED               | October 27, 2008                                                                                                                                                                              |
| DOCKET                | S08A1296                                                                                                                                                                                      |
| DISPOSITION           | reversed                                                                                                                                                                                      |
| PROCEDURAL POSTURE    | Interlocutory appeal from the trial court's denial of a motion to quash an indictment charging failure to register a new residence address under Georgia's sex-offender-registration statute. |
| STANDARD OF REVIEW    | The court reviewed the constitutional vagueness challenge to the statute as applied to the facts stipulated in the case.                                                                      |
| PRECEDENTIAL VALUE    | Published opinion; binding Georgia Supreme Court precedent, limited to the statute's application to homeless sexual offenders without a street or route address.                              |
| PARTIES               | William Santos v. The State                                                                                                                                                                   |

TOPICS

- due process
- void for vagueness
- criminal procedure
- statutory interpretation
- constitutional law

PRACTICE AREAS

- constitutional law
- criminal law
- criminal procedure
- sex-offender registration

## QUESTIONS PRESENTED

1. Whether OCGA § 42-1-12's address-registration requirement is unconstitutionally vague as applied to a homeless sex offender who lacks a street or route address.
2. Whether the statute provides fair notice and sufficiently definite enforcement standards concerning what information a homeless offender without a street or route address must report.

## HOLDINGS

1. OCGA § 42-1-12 is unconstitutionally vague as applied to homeless sexual offenders who possess no street or route address for their residence because it does not provide fair notice of how they can comply with the address-registration requirement.
2. The ruling invalidates only the address-registration requirement as applied to homeless sexual offenders who lack a street or route address; it does not exempt those offenders from reporting other required information or offenders who can provide a qualifying street or route address.

## KEY QUOTATIONS

*“In the absence of any language in the statute providing direction or a standard of conduct applicable to offenders who do not possess a street or route address, we conclude that OCGA § 42-1-12 does not provide fair warning to persons of ordinary intelligence as to what is required to comply with the statute, and therefore, the registration requirement as applied to Santos is unconstitutionally vague.”* (284 Ga. at 516-517)

*“We are by no means holding that all homeless sex offenders are exempt from the statute's reporting requirements.”* (284 Ga. at 517)

## FACTUAL BACKGROUND

Santos was a convicted sexual offender required to register under OCGA § 42-1-12. He had registered the Good News at Noon homeless shelter in Gainesville as his residence address, but shelter officials required him to leave in July 2006. He remained homeless until his arrest in October 2006, and the parties stipulated that during that period he did not possess a street or route address complying with the statute. The State charged him with failing to register a new address within the statutory period before leaving the shelter.

## PROCEDURAL HISTORY

Santos was indicted on three counts of failing to register a new address after leaving a homeless shelter. He moved to quash the indictment, arguing that OCGA § 42-1-12 was unconstitutionally vague as applied to homeless offenders without a street or route address. The trial court denied the motion, and the Supreme Court of Georgia reversed.

## DISPOSITION

reversed

## CASES CITED

- United States v. Harriss, 347 U.S. 612, 617 (1954)
- Hall v. State, 268 Ga. 89, 92, 485 S.E.2d 755 (1997)
- City of Chicago v. Morales, 527 U.S. 41, 55 (1999)
- Roemhild v. State, 251 Ga. 569(2), 308 S.E.2d 154 (1983)
- United States v. Mazurie, 419 U.S. 544, 550 (1975)
- Thelen v. State, 272 Ga. 81, 526 S.E.2d 60 (2000)
- Krieger v. Walton County Board of Commissioners, 269 Ga. 678, 681(2) n.16, 506 S.E.2d 366 (1998)
- Mayor, etc. of Savannah v. Savannah Electric & Power Co., 205 Ga. 429, 436-437, 54 S.E.2d 260 (1949)
- Twine v. State, 395 Md. 539, 910 A.2d 1132, 1136 n.3 (Md. 2006)
- Patel v. State, 282 Ga. 412 n.1, 651 S.E.2d 55 (2007)
- State v. Ohmer, 162 Ohio App.3d 150, 832 N.E.2d 1243, 1245-1246(III) (2005)
- State v. Rubey, 611 N.W.2d 888, 892(II) (N.D. 2000)
- State v. Brannan, 267 Ga. 315, 317 n.4, 477 S.E.2d 575 (1996)
- Schuman v. State, 264 Ga. 526, 448 S.E.2d 694 (1994)
- People v. North, 112 Cal. App. 4th 621, 5 Cal. Rptr. 3d 337, 348(3) (2003)

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