

SUPREME COURT OF KENTUCKY

Stinson v. Commonwealth

396 S.W.3d 900 (Ky. 2013) · Decided April 25, 2013

SUMMARY

The Kentucky Supreme Court affirmed the Court of Appeals in a first-degree sexual abuse case involving KRS 510.110(1)(d). The court held that lack of consent is satisfied when a minor under eighteen is subjected to sexual contact by a person in a position of authority or special trust, without requiring additional proof of lack of consent. The court also rejected the appellant’s vagueness and overbreadth challenges to the statute.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Justice Scott; Chief Justice Minton; Justice Abramson; Justice Cunningham; Justice Noble; Justice Venters
JURISDICTION	Kentucky
DECIDED	April 25, 2013
DISPOSITION	affirmed
PROCEDURAL POSTURE	The appellant was indicted for first-degree sexual abuse under KRS 510.110(1)(d), entered a conditional Alford guilty plea reserving the right to appeal the denial of his statutory and constitutional challenges, and sought discretionary review after the Court of Appeals affirmed.
STANDARD OF REVIEW	De novo review applies to statutory interpretation because it presents a question of law. Vagueness and overbreadth issues were reviewed under the applicable constitutional doctrines, including as-applied standing principles.
PRECEDENTIAL VALUE	Published Kentucky Supreme Court opinion; precedential.
PARTIES	Stinson v. Commonwealth of Kentucky

TOPICS

- statutory interpretation
- legislative intent
- due process
- void for vagueness
- overbreadth doctrine

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether lack of consent is an element of first-degree sexual abuse under KRS 510.110(1)(d).
2. Whether KRS 510.110(1)(d), including its references to a position of authority or special trust, is unconstitutionally vague.
3. Whether KRS 510.110(1)(d) is unconstitutionally overbroad because it allegedly reaches consensual sexual conduct involving persons between sixteen and eighteen years of age.

HOLDINGS

1. Lack of consent remains an element of the sexual-abuse offense, but under KRS 510.110(1)(d) it is established by proof that the victim was under eighteen and was subjected to sexual contact by a person in a position of authority or special trust with whom the victim came into contact as a result of that position; the prosecution need not prove an additional, separate lack of consent.
2. The appellant lacked standing to assert a facial vagueness challenge because the statute did not implicate First Amendment freedoms and was plainly applicable to his conduct. In any event, the statute and KRS 532.045 provide sufficient definiteness to give ordinary people fair notice and to discourage arbitrary or discriminatory enforcement.
3. The appellant lacked standing to bring an overbreadth challenge because the statute did not implicate the First Amendment. Even if he had standing, the challenge would fail because the statute regulates sexual conduct involving a minor under eighteen and a person in a position of authority or special trust, rather than constitutionally protected conduct.

KEY QUOTATIONS

“Essentially, under the amended statute; a minor cannot consent to sexual contact from a person who is in a position of special trust or authority.” (396 S.W.3d at 906)

“We thus hold that “lack of consent” can be shown by the fact that the victim was under the age of 18 and was subjected to sexual contact by a person in a position of authority or special trust with whom he or she came into contact as a result of that position, and that the prosecution need not prove any additional lack of consent.” (396 S.W.3d at 906)

FACTUAL BACKGROUND

The seventeen-year-old victim, identified by the pseudonym Betty, lived with the appellant, her uncle by marriage, during the summer of 2009. The appellant subjected her to sexual contact while he was the head of her household and occupied a position of authority or special trust. The appellant admitted engaging in the sexual contact but maintained that it was consensual.

PROCEDURAL HISTORY

The trial court denied motions asserting that lack of consent was an element of the charged offense and that KRS 510.110(1)(d) was unconstitutionally vague and overbroad. The appellant entered a conditional Alford plea and was sentenced to one year in prison. The Court of Appeals affirmed, and the Supreme Court of Kentucky granted discretionary review and affirmed, although it disagreed with the Court of Appeals' reasoning concerning lack of consent.

DISPOSITION

affirmed

CASES CITED

- North Carolina v. Alford, 400 U.S. 25 (1970)
- Commonwealth v. Love, 334 S.W.3d 92, 93 (Ky. 2011)
- Revenue Cabinet v. H.E. O'Daniel, 153 S.W.3d 815, 819 (Ky. 2005)
- Shawnee Telecom Res., Inc. v. Brown, 354 S.W.3d 542, 551 (Ky. 2011)
- MPM Financial Group, Inc. v. Morton, 289 S.W.3d 193 (Ky. 2009)
- Withers v. University of Kentucky, 939 S.W.2d 340, 345 (Ky. 1997)
- Troxell v. Trammell, 730 S.W.2d 525, 528 (Ky. 1987)
- Baker v. Commonwealth, 103 S.W.3d 90, 94 (Ky. 2003)
- Blockburger v. United States, 284 U.S. 299, 304 (1932)
- Tobar v. Commonwealth, 284 S.W.3d 133, 135 (Ky. 2009)
- State Bd. for Elementary & Secondary Educ. v. Howard, 834 S.W.2d 657, 662 (Ky. 1992)
- United States v. Mazurie, 419 U.S. 544, 550 (1975)
- United States v. National Dairy Products Corp., 372 U.S. 29 (1963)
- Wilfong v. Commonwealth, 175 S.W.3d 84, 96 (Ky. App. 2005)
- Schall v. Martin, 467 U.S. 253, 268 n.18 (1984)
- Lawrence v. Texas, 539 U.S. 558, 578-589 (2003)

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