

SUPREME COURT OF PENNSYLVANIA

Commonwealth v. Baker

621 Pa. 401 (Pa. 2013) (Pa. 2013) · Decided October 30, 2013

SUMMARY

The Pennsylvania Supreme Court considered whether a 25-year mandatory minimum sentence for a second conviction involving possession of child pornography was grossly disproportionate under the Eighth Amendment and Article I, Section 13 of the Pennsylvania Constitution. The Court held that the sentence was not grossly disproportionate, emphasizing the seriousness of child pornography offenses and the defendant’s recidivism, and affirmed the judgment of sentence.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice McCaffery; Chief Justice Castille; Justice Saylor; Justice Eakin; Justice Baer; Justice Todd
JURISDICTION	Pennsylvania
DECIDED	October 30, 2013
DISPOSITION	affirmed
PROCEDURAL POSTURE	Discretionary appeal from the Superior Court’s affirmance of Baker’s judgment of sentence, challenging the constitutionality of a 25-year mandatory minimum sentence for a second conviction of possessing child pornography.
STANDARD OF REVIEW	Constitutionality of a statute is a question of law reviewed de novo, with plenary scope of review. Under the Eighth Amendment proportionality analysis, the court first compares the gravity of the offense with the harshness of the sentence; only if that threshold comparison raises an inference of gross disproportionality does the court proceed to interjurisdictional and intrajurisdictional comparisons.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Pennsylvania; precedential.
PARTIES	Baker v. Commonwealth of Pennsylvania

TOPICS

cruel and unusual punishment

sentencing

criminal procedure

constitutional law

PRACTICE AREAS

criminal law

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QUESTIONS PRESENTED

1. Whether Pennsylvania's 25-year mandatory minimum sentence for a defendant twice convicted of possessing child pornography is grossly disproportionate to the offense and therefore violates the Eighth Amendment.
2. Whether the same mandatory minimum sentence violates Article I, Section 13 of the Pennsylvania Constitution.

HOLDINGS

1. The sentence is not grossly disproportionate to the gravity of a second conviction for possessing and viewing child pornography. Because the threshold comparison does not raise an inference of gross disproportionality, no further comparison with sentences imposed on other offenders or in other jurisdictions is required.
2. The court declined to conduct a separate state constitutional analysis because Baker argued that the federal standard controlled and did not present the analysis suggested by *Commonwealth v. Edmunds*. Applying the federal gross-disproportionality standard, the sentence was constitutional.

KEY QUOTATIONS

“We determine that the punishment is not grossly disproportionate to the crime and, accordingly, we affirm.”
(78 A.3d at 1044)

“It is unacceptably inaccurate to characterize or label Appellant’s crime as the simple possession of “dirty pictures” or the use of an outlaw product.” (78 A.3d at 1052)

“Thus, we need not reach the second and third prongs of the test for proportionality review under the Eighth Amendment, and accordingly, we affirm.” (78 A.3d at 1052)

FACTUAL BACKGROUND

Baker had a prior 2001 conviction for possessing child pornography. In 2007, a search of his residence uncovered a computer and DVDs containing dozens of videos and hundreds of photographs depicting children engaging in sexual acts; forensic analysis showed that the computer had been used to share the material online. He was convicted of 29 counts involving separate video clips, was determined to be a sexually violent predator, and received concurrent mandatory sentences of 25 to 50 years under Pennsylvania's recidivist sentencing statute.

PROCEDURAL HISTORY

Baker was convicted in the Court of Common Pleas of Cumberland County of 29 counts of sexual abuse of children—child pornography and one count of criminal use of a communication facility. The trial court determined that he was a sexually violent predator and imposed concurrent mandatory sentences of 25 to 50 years on the child-pornography convictions. The Superior Court affirmed, concluding that Baker failed to establish an inference of gross disproportionality. The Supreme Court of Pennsylvania granted allowance of appeal and affirmed.

DISPOSITION

affirmed

CASES CITED

- Commonwealth v. Hall, 549 Pa. 269, 701 A.2d 190 (1997)
- Harmelin v. Michigan, 501 U.S. 957 (1991)
- Commonwealth v. Spells, 417 Pa.Super. 233, 612 A.2d 458 (1992) (en banc)
- Solem v. Helm, 463 U.S. 277 (1983)
- Rummel v. Estelle, 445 U.S. 263 (1980)
- Ewing v. California, 538 U.S. 11 (2003)
- Hutto v. Davis, 454 U.S. 370 (1982)
- Commonwealth v. Edmunds, 526 Pa. 374, 586 A.2d 887 (1991)
- Commonwealth v. Davidson, 595 Pa. 1, 938 A.2d 198 (2007)
- New York v. Ferber, 458 U.S. 747 (1982)
- Osborne v. Ohio, 495 U.S. 103 (1990)
- Commonwealth v. Zettlemoyer, 500 Pa. 16, 454 A.2d 937 (1982)
- Commonwealth v. Omar, 602 Pa. 595, 981 A.2d 179 (2009)