

SUPREME COURT OF NEW JERSEY

In the Matter of the Civil Commitment of J.M.B.

197 N.J. 563, 964 A.2d 752 (2009) · No. A-79 September Term 2007; SVP-358-04 · Decided February 23, 2009

SUMMARY

The Supreme Court of New Jersey affirmed J.M.B.'s civil commitment as a sexually violent predator under the New Jersey Sexually Violent Predator Act. The Court held that the Act's subsection (b) permits a committing court to determine, by clear and convincing evidence, that conduct underlying a conviction for a non-enumerated offense was substantially equivalent to sexually violent conduct covered by subsection (a).

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Justice LaVecchia; Chief Justice Rabner; Justice Long; Justice Rivera-Soto; Justice Hoens; Justice Albin; Justice Wallace
JURISDICTION	New Jersey
DECIDED	February 23, 2009
DOCKET	A-79 September Term 2007; SVP-358-04
DISPOSITION	affirmed
PROCEDURAL POSTURE	J.M.B. appealed an order of civil commitment to the Special Treatment Unit under New Jersey's Sexually Violent Predator Act. The Appellate Division affirmed, and the Supreme Court of New Jersey granted certification.
STANDARD OF REVIEW	The State had to establish the statutory commitment elements by clear and convincing evidence; the Supreme Court reviewed the legal interpretation of the SVPA de novo and upheld factual findings supported by substantial credible evidence.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	J.M.B. v. State of New Jersey

TOPICS

- statutory interpretation
- legislative intent
- plain meaning rule
- health law

PRACTICE AREAS

civil commitment

sexually violent predator proceedings

statutory interpretation

constitutional law

evidence

QUESTIONS PRESENTED

1. Whether N.J.S.A. 30:4-27.26(b) permits a court to classify an offense not enumerated in subsection (a) as a sexually violent offense based on the conduct underlying the conviction.
2. What standard governs the determination that the conduct underlying a nonenumerated conviction is substantially equivalent to sexually violent conduct covered by subsection (a).
3. Whether J.M.B.'s kidnapping and aggravated-assault conduct involving A.C. qualified as a subsection (b) predicate offense.
4. Whether the commitment court could rely on police reports, presentence reports, prior evaluations, J.M.B.'s statements, and photographs in deciding the commitment petition.
5. Whether subsection (b), as interpreted, was unconstitutionally vague or violated ex post facto and double-jeopardy protections.

HOLDINGS

1. Subsection (b) authorizes a committing court to classify a nonenumerated offense as a sexually violent offense when the conduct underlying the conviction is substantially equivalent to the sexually violent conduct encompassed by the offenses listed in subsection (a).
2. The State must prove by clear and convincing evidence both the fact of the predicate conviction and that the conduct underlying the conviction was substantially equivalent to sexually violent conduct covered by subsection (a).
3. J.M.B.'s kidnapping and aggravated-assault conduct involving A.C. qualified as a subsection (b) predicate offense because it was substantially equivalent to sexually violent conduct encompassed by subsection (a).
4. The commitment court could consider police reports, presentence reports, prior psychiatric evaluations, J.M.B.'s statements, adoptive admissions, and the photographs in evaluating the subsection (b) predicate and the experts' opinions.
5. Subsection (b), as narrowly construed, was not unconstitutionally vague and did not make the SVPA punitive or violate ex post facto or double-jeopardy protections.

KEY QUOTATIONS

“When that conduct is substantially equivalent to the sexually violent conduct encompassed by the offenses listed in subsection (a), then that prior conviction may provide the predicate for a commitment application under subsection (b).” (761)

“The SVPA is a civil statute hence, the burden it establishes for relevant findings is clear and convincing evidence.” (762)

“We conclude therefore that the record in this matter, as it pertains solely to the offense involving A.C., provided adequate support for the civil commitment court's finding that J.M.B. had been convicted of a subsection (b) predicate crime for a sexually violent offense, based on the substantially equivalent conduct standard articulated herein.” (772)

FACTUAL BACKGROUND

J.M.B. had eight prior convictions involving repeated bondage, restraint, kidnapping, threats, and related conduct toward adolescent or young male victims. The commitment court found that four offenses qualified as sexually violent offenses under the SVPA's subsection (b), and experts diagnosed J.M.B. with sexual sadism and antisocial personality disorder and opined that he was highly likely to reoffend. The Supreme Court concluded that the 1981 incident involving A.C., in which J.M.B. kidnapped, restrained, blindfolded, gagged, and cut the hair of a sixteen-year-old boy while deriving sexual gratification from bondage, independently satisfied the statutory standard.

PROCEDURAL HISTORY

The civil commitment court found that four prior offenses qualified as sexually violent offenses under N.J.S.A. 30:4-27.26(b) and ordered J.M.B.'s commitment. The Appellate Division affirmed and rejected his statutory, evidentiary, hearsay, and constitutional challenges. The Supreme Court affirmed, relying on the A.C. kidnapping and aggravated-assault incident alone.

DISPOSITION

affirmed

CASES CITED

- In re Commitment of W.Z., 173 N.J. 109, 801 A.2d 205 (2002)
- State v. Bellamy, 178 N.J. 127, 835 A.2d 1231 (2003)
- In re Commitment of J.P., 393 N.J. Super. 7, 922 A.2d 754 (App. Div. 2007)
- D'Annunzio v. Prudential Insurance Co. of America, 192 N.J. 110, 927 A.2d 113 (2007)
- DKM Residential Props. Corp. v. Twp. of Montgomery, 182 N.J. 296, 865 A.2d 649 (2005)
- Ramapo River Reserve Homeowners Ass'n, Inc. v. Borough of Oakland, 186 N.J. 439, 896 A.2d 459 (2006)
- State v. Mumin, 361 N.J. Super. 370, 825 A.2d 1144 (App. Div. 2003)
- State v. Lee, 96 N.J. 156, 475 A.2d 31 (1984)
- State v. Hoffman, 149 N.J. 564, 695 A.2d 236 (1997)
- Karins v. Atlantic City, 152 N.J. 532, 706 A.2d 706 (1998)
- Kansas v. Hendricks, 521 U.S. 346, 138 L. Ed. 2d 501 (1997)
- Doe v. Poritz, 142 N.J. 1, 662 A.2d 367 (1995)
- Addington v. Texas, 441 U.S. 418, 99 S. Ct. 1804, 60 L. Ed. 2d 323 (1979)
- In re Commitment of A.X.D., 370 N.J. Super. 198, 851 A.2d 37 (App. Div. 2004)

- In re Commitment of J.H.M., 367 N.J. Super. 599, 845 A.2d 139 (App. Div. 2003)
- In re Commitment of M.L.V., 388 N.J. Super. 454, 909 A.2d 286 (App. Div. 2006)
- In re Commitment of A.E.F., 377 N.J. Super. 473, 873 A.2d 604 (App. Div. 2005)
- In re Commitment of E.S.T., 371 N.J. Super. 562, 854 A.2d 936 (App. Div. 2004)
- Franklin Tower One v. N.M., 157 N.J. 602, 725 A.2d 1104 (1999)

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