

SUPREME COURT OF NEW HAMPSHIRE

State v. Laporte, 157 N.H. 229

950 A.2d 147 (2008) · No. No. 2007-587 · Decided May 2, 2008

SUMMARY

The Supreme Court of New Hampshire reviewed the dismissal of an indictment charging Victor Laporte with endangering the welfare of a child by knowingly soliciting a child under sixteen to engage in sexual penetration. The court held that RSA 639:3, III does not require the purposeful mens rea associated with criminal solicitation under RSA 629:2, I, and that alleging the defendant acted knowingly was sufficient. The dismissal was reversed and the case remanded.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Galway, J.; Broderick, C.J.; Dalianis, J.; Duggan, J.; Hicks, J.
JURISDICTION	New Hampshire
DECIDED	May 2, 2008
DOCKET	No. 2007-587
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State petitioned for a writ of certiorari challenging the Superior Court's order dismissing the defendant's indictment after the defendant moved to dismiss at the close of the State's case.
STANDARD OF REVIEW	The court reviewed the trial court's statutory interpretation de novo and reviewed the certiorari issues for illegal action concerning jurisdiction, authority, or observance of law, or an unsustainable, arbitrary, unreasonable, or capricious exercise of discretion.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of New Hampshire
PARTIES	State of New Hampshire v. Victor Laporte

TOPICS

- statutory interpretation
- plain meaning rule
- writ of certiorari
- appellate procedure
- criminal procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the State could obtain certiorari review of the order dismissing the indictment after jeopardy had attached.
2. Whether RSA 639:3, III requires an indictment alleging solicitation of a child to engage in sexual penetration to allege the purposeful mens rea specified in the criminal solicitation statute, RSA 629:2, I.
3. Whether alleging that the defendant knowingly solicited a child under sixteen to engage in sexual penetration satisfies RSA 639:3, III.

HOLDINGS

1. Certiorari was the proper avenue for the State to seek relief from the order dismissing the criminal case after jeopardy had attached.
2. RSA 639:3, III does not incorporate the definition or mens rea of criminal solicitation in RSA 629:2, I. The term "solicitation" in RSA 639:3, III refers to the actus reus of enticing or strongly urging a child to engage in the specified sexual conduct, not to the separate offense of criminal solicitation.
3. The "knowingly" mental state in RSA 639:3, I applies to the conduct defined in RSA 639:3, III, except where the statute specifically assigns the higher culpability of "purposely" to particular elements. An indictment alleging that the defendant knowingly solicited a child under sixteen to engage in sexual penetration satisfies RSA 639:3, III.

KEY QUOTATIONS

"Solicits" or "solicitation," in contrast, refers solely to the actus reus." (157 N.H. at 231)

"We hold that alleging a mens rea of "knowingly" was proper pursuant to RSA 639:3, III and that the trial court erred by granting the defendant's motion to dismiss." (157 N.H. at 232)

FACTUAL BACKGROUND

In May 2004, a Hillsborough County grand jury indicted Victor Laporte for endangering the welfare of a child. The indictment alleged that he knowingly solicited a child under sixteen to have sexual intercourse with him. At the close of the State's case, Laporte argued that the indictment was defective because it did not allege that he acted with the purpose that another engage in conduct constituting a crime.

PROCEDURAL HISTORY

A Hillsborough County grand jury indicted Laporte for endangering the welfare of a child under RSA 639:3, III. The Superior Court granted Laporte's motion to dismiss, concluding that the indictment had to allege the purposeful mens rea for criminal solicitation under RSA 629:2, I. After the trial court denied reconsideration, the State sought certiorari in the Supreme Court of New Hampshire, which granted review, reversed, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The dismissal of the indictment is reversed, and the matter is remanded for further proceedings consistent with the opinion.

CASES CITED

- Petition of State of N.H. (State v. Giovanni), 154 N.H. 671, 674, 919 A.2d 762 (2007)
- Petition of State of N.H., 154 N.H. 674, 919 A.2d 762 (2007)
- Petition of State of N.H. (State v. Johanson), 156 N.H. 148, 150, 932 A.2d 848 (2007)
- Petition of the State of New Hampshire (State v. Campbell), 152 N.H. 515, 520, 880 A.2d 397 (2005)
- State v. Balukas, 155 N.H. 377, 378-79, 924 A.2d 381 (2007)
- State v. Paulsen, 143 N.H. 447, 450-51, 726 A.2d 902 (1999)

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