UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS, WESTERN DIVISION

United States v. Brittman

687 F. Supp. 1329 (E.D. Ark. 1988) · No. LR-CR-87-194 · Decided May 27, 1988

SUMMARY

The court holds that the Sentencing Reform Act unconstitutionally delegated legislative authority to the United States Sentencing Commission, including authority over federal criminal penalties and the definition of criminal conduct. It also discusses severability and adopts a two-track sentencing approach pending appellate resolution of the Guidelines' constitutionality. The defendant was convicted of armed bank robbery under 18 U.S.C. § 2113(d).

CASE DETAILS

COURT	United States District Court for the Eastern District of Arkansas, Western Division
WRITING FOR THE COURT	Eisele, Chief Judge
JURISDICTION	Arkansas
DECIDED	May 27, 1988
DOCKET	LR-CR-87-194
DISPOSITION	other
PROCEDURAL POSTURE	Following a jury conviction for bank robbery under 18 U.S.C. § 2113(d), the defendant moved to have the Federal Sentencing Guidelines and the United States Sentencing Commission declared unconstitutional before sentencing.
PRECEDENTIAL VALUE	Published federal district court opinion; persuasive authority only outside the issuing court and not binding precedent on appellate courts.

TOPICS

sentencing guidelines · sentencing · separation of powers · due process · constitutional law

PRACTICE AREAS

constitutional law · criminal law · sentencing · separation of powers · administrative law

QUESTIONS PRESENTED

1. Whether the Sentencing Reform Act unconstitutionally delegated Congress's legislative authority to the United States Sentencing Commission.
2. Whether promulgation of the Sentencing Guidelines violated the constitutional requirements of bicameralism and presentment.
3. Whether placing the Sentencing Commission within the judicial branch violated the Constitution.
4. Whether the composition of the Sentencing Commission, including Article III judges, violated separation-of-powers principles.
5. Whether the Sentencing Guidelines improperly assigned judicial sentencing discretion to the Sentencing Commission and the Executive Branch in violation of Article III.
6. Whether the mandatory Guidelines violated due process by eliminating individualized judicial sentencing.

HOLDINGS

1. The Sentencing Reform Act unconstitutionally delegated to the Sentencing Commission Congress's authority to establish federal criminal penalties and define criminal conduct.
2. The promulgation of mandatory Sentencing Guidelines by the Commission constituted legislative action that could not become law without passage by both Houses of Congress and presentment to the President.
3. Placement of the Sentencing Commission within the judicial branch violated the Constitution, although that placement provision was severable from the remainder of the statute.
4. The inclusion of Article III judges on the Sentencing Commission violated separation-of-powers principles by assigning them nonjudicial legislative and executive functions and impairing judicial impartiality.
5. The Sentencing Reform Act unconstitutionally transferred sentencing discretion that Congress had left within statutory sentencing ranges from Article III judges to the Sentencing Commission and the Executive Branch.
6. The mandatory Guidelines violated due process and separation-of-powers principles by eliminating broad judicial discretion to impose individualized sentences within congressionally established ranges.

KEY QUOTATIONS

> "*For the reasons set forth below this Court is declaring the Sentencing guidelines and the Sentencing Commission unconstitutional*" (at 1331)

> "*Congress in its understandable frustration has attempted to take itself out of the crime and punishment business.*" (at 1340)

> "*The Sentencing Commission and the Sentencing Guidelines are unconstitutional.*" (at 1358)

FACTUAL BACKGROUND

Eric Brittman was convicted by a jury of robbing the East Branch of First Commercial Bank in Little Rock, Arkansas, on November 16, 1987. The indictment alleged that he took $37,148 by force, violence, and intimidation and endangered a bank employee's life with a handgun, in violation of 18 U.S.C. § 2113(d). The conspiracy count under 18 U.S.C. § 371 was dismissed on the government's motion. Because the offense occurred after October 31, 1987, the court addressed the applicability and constitutionality of the newly effective Sentencing Guidelines.

PROCEDURAL HISTORY

The defendant was charged with bank robbery and conspiracy to rob a bank. A jury convicted him on the bank-robbery count, and the government moved to dismiss the conspiracy count. The court considered the defendant's amended constitutional challenge to the Sentencing Reform Act, the Sentencing Commission, and the Guidelines in connection with sentencing.

DISPOSITION

other

CASES CITED

- United States v. Estrada, 680 F. Supp. 1312 (D. Minn. 1988)
- Panama Refining Co. v. Ryan, 293 U.S. 388 (1935)
- Industrial Union Department v. American Petroleum Institute, 448 U.S. 607 (1980)
- Whalen v. United States, 445 U.S. 684 (1980)
- United States v. Wiltberger, 18 U.S. (5 Wheat.) 35 (1820)
- Kent v. Dulles, 357 U.S. 116 (1958)
- United States v. Robel, 389 U.S. 258 (1967)
- United States v. Grimaud, 220 U.S. 506 (1911)
- J.W. Hampton, Jr. & Co. v. United States, 276 U.S. 394 (1928)
- United States Parole Commission v. Geraghty, 719 F.2d 1199 (3d Cir. 1983)
- United States v. Jones, 540 F.2d 465 (10th Cir. 1976)
- Gore v. United States, 357 U.S. 386 (1958)
- Immigration & Naturalization Service v. Chadha, 462 U.S. 919 (1983)
- United States v. Johnson, 682 F. Supp. 1033 (W.D. Mo. 1988) (en banc)
- Northern Pipeline Construction Co. v. Marathon Pipe Line Co., 458 U.S. 50 (1982)
- United States v. Smith, 686 F. Supp. 847 (D. Colo. 1988)
- Alaska Airlines, Inc. v. Brock, 480 U.S. 678 (1987)
- Bowsher v. Synar, 478 U.S. 714 (1986)
- Massachusetts v. Mellon, 262 U.S. 447 (1923)
- In re Sealed Case, 838 F.2d 476 (D.C. Cir. 1988)
- Keller v. Potomac Electric Power Co., 261 U.S. 428 (1923)

- Prentis v. Atlantic Coast Line Co., 211 U.S. 210 (1908)
- Hayburn's Case, 2 U.S. (2 Dall.) 409 (1792)
- United States v. Ferreira, 54 U.S. (13 How.) 40 (1851)
- Chandler v. Judicial Council of the Tenth Circuit, 398 U.S. 74 (1970)
- In re Matter of Certain Complaints Under Investigation, 783 F.2d 1488 (11th Cir. 1986)
- Sibbach v. Wilson & Co., 312 U.S. 1 (1941)
- Hastings v. Judicial Conference of the United States, 770 F.2d 1093 (D.C. Cir. 1985)
- In re Application of President's Commission on Organized Crime, Subpoena of Scaduto, 763 F.2d 1191 (11th Cir. 1985)
- In re Application of President's Commission on Organized Crime, Subpoena of Scarfo, 783 F.2d 370 (3d Cir. 1986)
- Nixon v. Administrator of General Services, 433 U.S. 425 (1977)
- Miller v. Florida, 482 U.S. 423 (1987)
- United States v. Evans, 333 U.S. 483 (1948)
- Lockett v. Ohio, 438 U.S. 586 (1978)
- United States v. Grayson, 438 U.S. 41 (1978)
- United States v. Benz, 282 U.S. 304 (1931)
- Tumey v. Ohio, 273 U.S. 510 (1927)