

LESSON HANDOUT

Protecting Offenders' Rights High School Students

Handout 2: Prisoners' Rights

Kansas v. Hendricks, 117 S.Ct. 2072, 138 L.Ed.2d 501 (1997)

Facts

Leroy Hendricks is a criminal who preys on children. Over a 30-year period, he was convicted five times for molesting children.

Hendricks was most recently convicted in 1984 by the State of Kansas for molesting two 13-year-old boys. After he completed his prison term for that conviction, Kansas used a 1994 law to place Hendricks in a mental institution as a mentally abnormal and dangerous person. Since then, Hendricks has challenged the Kansas Sexually Violent Predator Act. The United States Supreme Court has been asked to decide whether the act violates the Constitution's prohibition against *ex post facto* laws. *Ex post facto* laws prohibit states from imposing a punishment for a past crime that is greater than the punishment was at the time the crime was committed. The Court must also decide whether the state law violates the protection against double jeopardy (punishing a person twice for the same crime).

In 1994, the Kansas legislature passed the Sexually Violent Predator Act. This statute permits the civil confinement of any sexually violent predators.

After Hendricks served his prison sentence, he was confined in a mental institution as a sexually violent predator under the new statute. At the commitment hearing, Hendricks admitted that he could not resist the urge to engage in sexual acts with children. A psychologist testified that Hendricks was mentally abnormal, but not mentally ill.

Case Analysis

The question presented is whether the confinement is punishment. If it is not, Hendricks's *ex post facto* and double jeopardy claims cannot be supported.

Kansas argued that Hendricks is being provided treatment and the public is being protected from future offenses. Hendricks argued that he has received little or no treatment and that the statute merely provides a means to punish sex offenders after they have served their prison sentences. Hendricks wanted the Supreme Court to determine whether the law was warranted by a compelling state interest and was the least restrictive means of furthering the state's objectives because it deprived him of his right to physical liberty.

Kansas said that the predator statute should be declared valid because it furthers compelling public interests by treating dangerous sex offenders while protecting the public from them.

Significance

Kansas argued that its statute meets the two requirements for confinement in a mental institution: mental illness and dangerousness. Illness and abnormality should not be distinguished, according to the state—to do so would deprive states of a crime-fighting tool that is necessary to protect the public from sexually violent predators whose criminal sentences have expired.

On the other hand, if mental abnormality and dangerousness are reasons for confinement, more persons may be committed to mental institutions even though they are not mentally ill.

Adapted from Preview of U.S. Supreme Court Cases, no. 3 (November 18, 1996): 166–170, © 1996 American Bar Association. The actual decision of the Court can be found at <http://supct.law.cornell.edu/supct/html/95-1649.ZS.html>