



Iowa General Assembly

2008 Legal Updates

Legislative Services Agency – Legal Services Division

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CONSTITUTIONALITY OF SPECIAL SENTENCES

Filed by the Iowa Supreme Court

November 14, 2008

State of Iowa v. Kelly Lee Wade

http://www.iowacourts.gov/Supreme_Court/Recent_Opinions/20081114/07-0703.pdf

Overview. The defendant was convicted of indecent exposure in violation of Code Section 709.9. The defendant was sentenced to serve 365 days in jail with 355 days of the sentence suspended, and placed on probation for a period of two years. A person convicted of indecent exposure is also required to serve a special sentence which requires a person to be on parole status for a period of 10 years. The District Court refused to impose the special sentence as provided in Code Section 903B.2. The District Court found the imposition of the special sentence to be illegal and unconstitutional.

Issues. Does the special sentence violate the United States Constitution's prohibition against cruel and unusual punishment, the separation of powers doctrine, and the Equal Protection Clauses of the United States and Iowa Constitutions?

Defendant's Arguments. The defendant argues the special sentence is cruel and unusual punishment because a conviction for indecent exposure carries a maximum period of confinement not to exceed one year in the county jail, while the maximum term of confinement for a violation while serving the special sentence is an additional term of two years in prison for a first violation and a maximum term of five years in prison for second or subsequent violations. The defendant also argues that the special sentence violates the Equal Protection Clause by subjecting serious misdemeanants and felons with the same 10-year special sentence length under Code Section 903B.2. The defendant contends that an administrative parole judge should not have the power to revoke an offender's special sentence and sentence the person to prison. The placement of a defendant in prison, the defendant argues, is an exercise of judicial power not executive power. The defendant also contends the imposition of a special sentence is an illegal sentence because it conflicts with the maximum period of confinement and length-of-probation provisions for serious misdemeanor offenses.

Analysis. The Iowa Supreme Court concluded the punishment for indecent exposure and the punishment for a violation of the special sentence are not grossly disproportionate because a person serving a special sentence begins the sentence as if on parole. Thus, a special sentence does not constitute cruel and unusual punishment. The Court also found that a special sentence does not violate the Equal Protection Clause because sex offenders present a special problem and danger to society, and the legislature may classify a sex offender differently from other offenders. The Court emphasized the legislature is free to single out sexually violent predators from other violent offenders. The Court also concluded that, by extending the current parole supervision scheme, which is constitutional, to special sentences, a violation of the separation-of-powers doctrine did not occur. Finally, the Court concluded that the special sentence is not an illegal sentence because the specific statutory provisions related to the imposition of a special sentence prevail over the general statutory provisions related to serious misdemeanors.

Holding. The Court remanded the case to District Court with instructions that the special sentence under Code Section 903B.2 be imposed. The Court reserved the right in the future to rule on whether a violation of the Equal Protection Clause occurred for defendants serving a special sentence who may be treated differently for minor infractions than other defendants on parole status.

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