



Court: Sexually Dangerous Can Be Kept in Prison

Supreme Court says federal officials can indefinitely hold sexually dangerous prisoners

By **JESSE J. HOLLAND** Associated Press Writer

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The Supreme Court ruled Monday that federal officials can indefinitely hold inmates considered "sexually dangerous" after their prison terms are complete.

The high court in a 7-2 judgment reversed a lower court decision that said Congress overstepped its authority in allowing indefinite detentions of considered "sexually dangerous."

"The statute is a 'necessary and proper' means of exercising the federal authority that permits Congress to create federal criminal laws, to punish their violation, to imprison violators, to provide appropriately for those imprisoned and to maintain the security of those who are not imprisoned but who may be affected by the federal imprisonment of others," said Justice Stephen Breyer, writing the majority opinion.

President George W. Bush in 2006 signed the Adam Walsh Child Protection and Safety Act, which authorized the civil commitment of sexually dangerous federal inmates.

The act, named after the son of "America's Most Wanted" television host John Walsh, was challenged by four men who served prison terms ranging from three to eight years for possession of child pornography or sexual abuse of a minor. Their confinement was supposed to end more than two years ago, but prison officials said there would be a risk of sexually violent conduct or child molestation if they were released.

A fifth man who also was part of the legal challenge was charged with child sex abuse but declared incompetent to stand trial.

The 4th U.S. Circuit Court of Appeals in Richmond, Va., ruled last year that Congress overstepped its authority when it enacted a law allowing the government to hold indefinitely people who are considered "sexually dangerous."

But "we conclude that the Constitution grants

Congress legislative power sufficient to enact" this law, Breyer said.

Solicitor General Elena Kagan successfully argued the government's case in front of the Supreme Court. Kagan has now been nominated to replace the retiring Justice John Paul Stevens.

Kagan in January compared the government's power to commit sexual predators to its power to quarantine federal inmates whose sentences have expired but have a highly contagious and deadly disease.

"Would anybody say that the federal government would not have Article I power to effect that kind of public safety measure? And the exact same thing is true here. This is exactly what Congress is doing here," she said.

Justice Clarence Thomas dissented from the court's judgment, saying Congress can only pass laws that deal with the federal powers listed in the Constitution.

Nothing in the Constitution "expressly delegates to Congress the power to enact a civil commitment regime for sexually dangerous persons, nor does any other provision in the Constitution vest Congress or the other branches of the federal government with such a power," Thomas said.



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Thomas was joined in part on his dissent by Justice Antonin Scalia.

Chief Justice John Roberts last year granted an administration request to block the release of up to 7 inmates at a federal prison in North Carolina. These were people whose prison terms for sex offenses were ending. The justice's order was designed to allow time for the high court to consider the administration's appeal.

The Adam Walsh Child Protection and Safety Act also establishes a national sex offender registry, increases punishments for some federal crimes against children and strengthens child pornography protections. Those provisions are not being challenged.

State laws allowing civil commitments of sex offenders also are unaffected.

The case is U.S. v. Comstock, 08-1224.



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