

12-8561 PAROLINE V. UNITED STATES

DECISION BELOW: 701 F.3d 749

LOWER COURT CASE NUMBER: 09-41238, 09-41254

QUESTION PRESENTED:

The Fifth Circuit held, contrary to the holdings of every other circuit considering the question, that there was no requirement that restitution be limited to losses proximately caused by the defendant's criminal acts and that the defendant is responsible for restitution for all losses suffered by the victim regardless of whether the Defendant's criminal acts proximately caused the loss and the victim's losses occurred prior to the Defendant's indictment and arrest.

1. In determining restitution in child pornography cases pursuant to 18 U.S.C. § 2259(b) (3), is the award of restitution limited to losses proximately caused by the defendant's criminal actions or may a defendant be required to pay restitution for *all* losses, regardless of whether his criminal acts proximately caused the loss?
2. Whether the Government is correct in its argument that authorizing \$3.4 million in restitution against a defendant to a victim of child pornography who has never had contact with the defendant may violate the Eighth Amendment ban on excessive fines in the absence of a proximate cause requirement in the setting of the amount of restitution assessed against that defendant. ¹

¹Paroline also argued in the District Court and the Fifth Circuit that an award of restitution without a showing of proximate cause would violate the Eighth Amendment of the United States Constitution. The majority en banc opinion of the Fifth Circuit did not address Paroline's Eighth Amendments concerns.

LIMITED TO THE FOLLOWING QUESTION: WHAT, IF ANY, CAUSAL RELATIONSHIP OR NEXUS BETWEEN THE DEFENDANT'S CONDUCT AND THE VICTIM'S HARM OR DAMAGES MUST THE GOVERNMENT OR THE VICTIM ESTABLISH IN ORDER TO RECOVER RESTITUTION UNDER 18 U.S.C. §2259.

CERT. GRANTED 6/27/2013