

19-8254

In The

Supreme

Supreme Court Of The United States

ORIGINAL

No. _____

Samuel Dowell, And Others Similary Situated,
Petitioners.

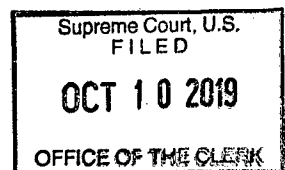
V.

United States Of America, Respondent

On Petition for writ of Centiorari to the
United States Court Of Appeals for The
Ninth Circuit CASE No. 19-35110

To The Honorable Chief Justice of The
Supreme Court of The United States and
to the Honorable Justices of the Court

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Questions Presented

1) Can Congress Regulate the private and personal property of the ultimate consumer for eternity through The Commerce Clause simply because that item at some point in history travelled in the stream of commerce?

2) Can Congress deny rights to minors that have been clearly established by the Supreme Court of the United States concerning privacy in connection with intimate relationships and procreation?

3) Can Congress enact statutes that chill and forbid Islamic Americans the same Constitutional rights enjoyed by other American cultures, thus, prohibiting long established Muslim Religious tenets and traditions?

4) Is pedophilia a religious choice protected by the First Amendment, a sexual orientation protected by the Fourteenth Amendment, or a mental defect of ones birth? And if it is a mental defect, is criminalizing it and jailing mentally ill victims for decades cruel and unusual punishment under the Eighth Amendment?



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Opinions Below

IN RE Samuel Dowell, V United States No. 3:18-cv-01939-BR
US District court for the district of Oregon. UNPUBLISHED

IN RE Samuel Dowell, V United States No. 19-35110
US Court of Appeals for the Ninth Circuit UNPUBLISHED

JURISDICTION

THE JURISDICTION OF THIS COURT TO REVIEW THE JUDGEMENT OF THE
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT IS INVOKED UNDER
28 U.S.C. § 1254

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

✓ Constitutional Articles

a) The Religious Restoration Act (RFRA)	13,15
b) Article 1 Section 8 Clause 3	8,10,17
c) Amendment 1 Bill of Rights	12,13,15
d) Amendment 8 Bill of Rights	12,15
e) Amendment 14 Bill of Rights	12,15,17

✓ Statutes

18 U.S.C. § 2250 et seq	5,6,9,12,16,17,18
28 U.S.C. § 1254	7
Fed R. Civ. P. 23 (B) (I) (A)	

STATEMENT OF THE CASE

1) On November 06, 2018 Petitioners Samuel Dowell, and others similarly situated, filed a class action extraordinary writ challenging the constitutionality of statute 18 U.S.C §2250 et seq. in the United States District Court for the District of Oregon. Anna J. Brown District Judge, presiding. No. 3:18-cv-01939-BR. Petitioners being unversed in federal law requested the appointment of legal council to assist Petitioners in this action, that request was arbitrarily denied. Thus, pro se Petitioners remain without council.

2) On January 24, 2019 the Court dismissed the class action writ without addressing the issues raised or weighing the merits of the three grounds presented and instead addressed Samuel Dowell's conviction, which was not raised by Petitioners and was not an issue before the Court. Petitioners requested and were granted a certificate of appealability to the Ninth Circuit Court of Appeals.



3) On February 11, 2019 Petitioners filed an appeal to the Ninth Circuit Court of Appeals. Case No. 19-35110.

4) On May 28, 2019, Petitioners' appeal was denied, again citing Samuel Dowell's conviction and not addressing any of the merits of the issues raised in the class action writ. Petitioners requested a hearing en banc to again attempt to have their issues addressed on the merits of the issues raised.

5) On August 28, 2019 an en banc hearing was denied.

Reasons for Granting This Petition

1) Can Congress regulate the private and personal property of the ultimate consumer for eternity through the Commerce Clause simply because that item at some point in history travelled in the stream of commerce?

This case presents the important constitutional question of just how much power does Article 1, Section 8, Clause 3 of the Constitution grant to Congress to control items of personal property after they have left the stream of commerce and become possessed by the ultimate consumer in the form of personal, private property.

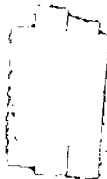
Once the ultimate consumer purchases an item of goods, that item is no longer goods, and has completely lost its commerce character, it has in fact become private property of the person who bought it. Zoslaw v. Mca. Dist. Corp. 693 F2d 870. 878 (9th Cir. 1981) (The flow of commerce ends when goods reach their "intended destination")

At the point where "commerce" ends, so too should the power of Congress to regulate that item, as it is no longer "goods", it is the consumer's private property, protected by the Fourteenth Amendment. Lynch v. Household Fin. Corp. 405 U.S. 538, 552, 36 LEd2d 424, 92 S.Ct. 1113 (1972)



Congress contends in its commerce clause statutes that it may continue to regulate items of the ultimate consumer for eternity if it so desires, if that personal property, or any part of it "have been mailed, shipped or transported in interstate or foreign commerce by any means." see 18 U.S.C. §2251-52.

To allow Congress to use the theory that "if an item ever passed through the stream of commerce, they may use it to regulate a citizen's behavior while using that item" gives to Congress a tyrannical power to micro manage every person's life, because in American society every item of personal property owned by the consumer, at some point passed through the stream of commerce. see US v. Kane 2013 US DIST LEXIS 15248 (9th Cir.) ("To allow Congress to regulate local crime on a theory of its aggregate effect on the national economy would give Congress a free hand to regulate any activity, since, in the modern world virtually all crimes have at least some attenuated impact on the national economy.") US v. Lynch 282 F3d 1049, 1053 (9th Cir. 2001) (Citing Lopez 574 U.S. at 552); US v. Ballenger 312 F3d 1204, 1271 (11th Cir. 2002); Morrison 529 U.S. at 615; US v. Rodia 194 F3d 465, 473 (3rd Cir. 1999); US v. Angle 234 F3d 326, 337 (7th Cir. 2000); US v. Woodruff 941 F. Supp. 910, 921 (9th Cir. 1996) ("Congress' power to regulate articles of goods, does not permit it



to regulate an item for eternity simply because it has once passed state lines.") US v. Alderman 565 F3d 641, 650 (9th Cir. 2008)

The framers of the Constitution intended the federal government's power to be limited and external, that State governments would regulate internal matters. They never intended Article 1, Section 8, Clause 3 to give Congress the power to regulate the personal private property of the ultimate consumer for eternity, and by proxy control the actions of every person who used the item. Power can be a heady drug, but like any drug it has the potential to corrupt. And thus, the Supreme Court should be vigil to protect the people against any infringement of our constitutional rights.

2) Can Congress deny rights to minors that have been clearly established by the Supreme Court of the United States concerning privacy in connection with intimate relationships and procreaiton?

Does Article 1 section 8 Clause 3 grant Congress the power to regulate what minors choose to do in their personal and privaterelationships with other minors or adults, simply because a cell phone, computer or camera was involved, that at some point in history crossed state lines?

see Clark V Roccanova 772 F.Supp. 844 (6 cir 2011) (case involves three 14 year old boys each sentenced to 15 years in prison and life time regestration as sex offenders under 18 U.S.C. § 2250 Et seq for exchanging and sharing images of a willing and participating 13 year old girl on their cell phones... sexting)

The Supreme Court has reconized in prior case law that many states allow minors to marry and procreate. see Ashcroft V Free Speech Coalition 535 US 234,247, 122 S.Ct. 1389, 152, LEe2e, 403 (2001); Packingham V North Carolina 198 LEd2d 273, 283 (2017); Carey V Population Serv. Int'l 431 US 678,676, 97 S.Ct.2010, 52 LEd2d 675 (1977)("The right to privacy in connection with decisions affecting procreation extends to minors as well as adults." id)

They have also stated that individuals have a right to privacy in the home, and a Liberty to choose who to be in an intimate relationship with. Lawrence V Texas 539 US 558, 567,123 S.Ct.2472, 156 LEd2d. 508 (2003) and that married and unmarried individuals have the same rights. Lawrence Supra at 539 US at 565 citing Eisenstadt V Baird 405 US 438,454,31 LEd3d 349,925. Ct 1029(1972) and finally,"that just because the governing majority finds a particular behavior immoral is not a reason to uphold a law prohibiting it." as the courts obligation is to define liberty for all, not



to mandate its own moral code. Lawrence Supra 539 US at 571-72 citing Planned Parenthood of S.E. Pa V Casey 505 US 833,850,120 LEd2d674,112 S.Ct. 2791 (1992); Ali model penal code 213.2 comment 2, P. 372 (1980)

The conduct Congress prohibits making images of, in statute 18 U.S.C § 2250 et seq, is a freedom and liberty recognized in many countries worldwide, and is an intricate part of the Islamic religion in which almost all Muslim women are married before 14 years of age and to deny these married couples the right to take intimate images... a right enjoyed by other married couples, heterosexual, homosexual, christian, ect simply because Islamic culture and religious tenets permit marriage before the arbitrary Judeo-Christian cultural age of adulthood, is discriminatory and unconstitutional. and to imprison minors for longer than they have been alive, for getting caught in an improper fad, that many children of that age were participating in, is absolutely outrageous and conscience shocking on a Constitutional level. Clark Supra Thus, this statute needs reviewing as to its legislative intent and constitutionality.

To prohibit and imprison Islamic men for decades for taking and possessing intimate images of their wives violates the First, Eighth and Fourteenth Amendments.

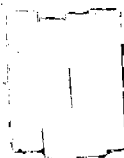


3) Can Congress enact statutes that chill or forbid Islamic Americans the same Constitutional rights enjoyed by other American cultures, thus, prohibiting long established Muslim religious tenets and traditions?

The Free Exercise Clause of the First Amendment "withdraws from legislative power, state and federal," The exertion of any restraint on the exercise of religion." Burchett V Bromps 2008 US Dist Lexis 96920 (9 cir)(citing Abington sch Dist V Schempp 374 US 203, 222-23, 83 S.Ct. 1560, 10 LE2d 844 (1963)

When faced with unavoidable conflict between following the law or religious beliefs, the Religious Freedom Restoration Act (RFRA) provides religious objectors a means to challenge generally applicable laws and seek exception to avoid following that law without having to break it, statutory accommodations are generally provided.

Courts can not question whether the petitioner has correctly perceived commands of his faith, as the religious Freedom Restoration Acts statutory text, and religious liberty case law demonstrates, courts must determine if a law or policy substantially burdens a persons free exercise "of thier preception of their religion." The governing majority may not enact statytes to force their Judeo-Christian religions moral standard upon other religions.



These discriminatory statutes effect not only Muslims but other cultures as well, such as Naturalists, and Wiccans.

In Wicca, there is no moralistic doctrine or dogma other than the advice offered in the Wiccan rede, -"The mother charge" tells Wiccans "All acts of love and pleasure are my rituals." The only law is Love,- In Wicca, physical pleasure is an act of worship. see The Wiccan Bible by A. Gallager Sterling Press (2005) pp 29.

Thus, Islam is not the only culture reduced to an underclass of citizen and put at risk by these statutes.

The Supreme Court has repeatedly warned "that courts must not presume to determin the place of a particular belief on a religion, or the plausibility of a religious claim." ^{see} see Emp't Div of Oregon V Smith 494 US 872,887,110 S.Ct. 1595,108 LEd2d 876(1990)(collecting cases) "It is not within the judicial ken to question the centrality of a particular beliefs or practices to a faith or the validity of particular litigants interpretations of those creeds." Hernandez V C.I.R. 490 US 680,699,109 S.Ct. 2163,104 LEd2d 766(1989); Burwell V Hobby Lobby Stores Inc. 189 LEd2d 675,706-07, 2014 US Lexis 4505. (2014) Restricting or prohibiting certain classes of individuals from freely using their personal and private property to record images of their spouse, simply, because their religion allows massiage to minors violates the



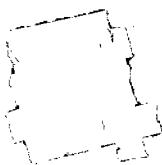
First and Fourteenth Amendment. see Pruneyard Shopping CTR
V Robins 477 US 74,97,64 LEd2d 741; US V Alderman 565 F3d640,
651(9 cir 2008)(Holding" the statute-which prohibits-possession,
ownership and purchase, criminalizes certain conduct- rather
than regulating interstate commerce.")("nor is mere possession
of an object consistent with activities the Supreme Court has
found to be commercial." id at 651) thus, this case should be
heard to review the conflict between statute 18 U.S.C. § 2250
et seq and The Constitution also RFRA.

4) Is pedophilia a religious choice protected by the
First Amendment, A sexual orientation protected by the
Fourteenth Amendment, or a mental defect of ones birth?
and if it is a mental defect, is criminalizing is and jailing
mentally ill victims for decades cruel and unusual
punishment under the Eighth Amendment?

At least one form of pedophilia is a form of choice
practiced worldwide, Islamic people have been marrying their
wives before the age of 14 years old, an example set by the
prophet Mohammad over 1400 years ago. and Muslims have
been following the prophets example in everything they
do ever since. so for Muslims...Yes, it is a choice to
follow the prophets perfect example in everything.



Is pedophilia also a sexual orientation like heterosexual or homosexuality? The term "sexual orientation" simply put means - The direction one's sexual interest points - so a pedophile can be either heterosexual or homosexual, but his or her sexual interest points toward minors, who the Supreme Court held, have a right to privacy in matters concerning sex or procreation. Carey Supra, so, yes, it would seem pedophilia is a sexual orientation. and Congress does not ban marriage to minors, so this case raises a novel issue; whether, under the equal protection Clause, moral disapproval is a legitimate government issue to justify a statute that criminalizes the making of images of behavior that is not criminal of itself in the marital bedroom. As it would surely be an Unconstitutional law that criminalized sexual intimacy between a husband and his minor wife, or wife and her minor husband, and The Supreme Court has already recognized 48 states permit minors to marry adults. Ashcroft Supra. and that the age of consent in most states is 16 years old or younger. so statutes 18 U.S.C. § 2250 et seq. criminalize behavior that is not criminal in of itself, and since the statutes do not criminalize adult married or unmarried couples recording the exact same behavior on items of personal property that has travelled in Commerce. Thus, it would



appear these statutes discriminate against one group of individuals and create an underclass of citizen, those who marry or date minors- including other minors, and this violates the Fourteenth Amendment's Equal Protection Clause. see Lawrence V Texas 539 US at 582-86; it is well established that as a general rule, the government "may not suppress lawful speech as a means to suppress unlawful speech." Ashcroft Supra 535 US at 255. and here statutes 18 U.S.C. § 2250 et seq outlaw the recording of lawful conduct, if done on an item of personal property, if that item of personal property ever travelled in commerce. Carrying sanctions that begin at ten year mandatory prison sentences and quickly spiral up to life without parole, seem beyond the powers enumerated to Congress by the Constitution under Article 1 section 8 clause 3, but appears to simply be discrimination against a class of people based upon nothing more than a moral disapproval of this group by the governing majority.


With over a billion Muslims world wide marrying minors and the majority of states allowing minors to marry... There is no epidemic of psychocological, emotional or mentally damaged women, Congress' conclusory findings are meritless and have no data to support them.

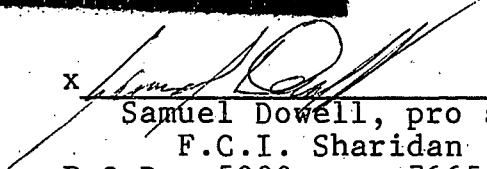
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and thus, the constitutional findings do not support the discriminatory statutes prohibiting Muslims and others who marry or date minors, including other minors or young adults from recording (on items of personal property that has passed through commerce) typically lawful behavior on their cell phones or computers.

Wherefore, petitioners Samuel Dowell, and others similarly situated, pray that this court will grant certiorari to further review the Constitutional questions of national importance where statute 18 U.S.C. § 2250 et seq conflicts with the constitutional rights of the people.

Respectfully Submitted on This

 2019.

x 
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