
MUNICIPAL ORDINANCE - WASHINGTON

City of Seattle v. Rodriguez

Court of Appeals of Washington, Division 1 - December 14, 2020 - P.3d - 2020 WL 7332611

Defendant was convicted in the Superior Court under city's sexual exploitation ordinance, stemming from incident in which he handed undercover police detective $80 in exchange for sexual conduct.

Defendant appealed, challenging ordinance as unconstitutionally vague and overbroad.

The Court of Appeals held that:

- Ordinance was not subject to strict-scrutiny analysis for constitutionality;
- Ordinance proscribed conduct which was not protected by First Amendment, and thus was not overbroad;
- Ordinance was not unconstitutionally vague based on its inclusion of term "agreement" and phrase "pursuant to an understanding"; and
- Ordinance was not unconstitutionally vague based on discretion it vested in police officers to enforce ordinance.

City's sexual exploitation ordinance, which proscribed agreements to compensate another person in exchange for engaging in sexual conduct, was not subject to strict-scrutiny analysis for constitutionality, where prostitution, which was clearly the conduct proscribed by the ordinance, was not a free speech activity protected by the First Amendment.

City's sexual exploitation ordinance, which proscribed agreements to compensate another person in exchange for engaging in sexual conduct and required no intent element, was not unconstitutionally overbroad in violation of the First Amendment, where the proscribed conduct, which was clearly the solicitation of prostitution, was not a free speech activity protected by the First Amendment.

City's sexual exploitation ordinance, which proscribed agreements to compensate another person pursuant to an understanding that the person would engage in sexual conduct, was not rendered unconstitutionally vague in violation of the Due Process Clause based on its inclusion of term "agreement" or phrase "pursuant to an understanding," the meaning of which was readily ascertainable to persons of ordinary intelligence.

City's sexual exploitation ordinance, which proscribed agreements to compensate another person in exchange for engaging in sexual conduct, was not rendered unconstitutionally vague in violation of the Due Process Clause based on the discretion vested in police officers to enforce the ordinance, since the ordinance did not invite an inordinate amount of police discretion outside of the normal level of police officer discretion typically associated with the enforcement of statutes.

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