

Court rejects weaker child-porn law

Conviction stands for possessing 'lascivious' photos of clothed girls

By Joyce Price
THE WASHINGTON TIMES

A federal appeals court in Philadelphia yesterday rejected an attempt by the Clinton administration to weaken federal child-pornography laws by upholding a 1992 conviction of a Pennsylvania man for possession of child pornography.

"Today's decision is a victory for exploited children and a blow to the Clinton administration," Rep. Christopher H. Smith, New Jersey Republican, said at a news conference after the 3rd Circuit Court of Appeals' 40-page ruling was released.

But Justice Department spokesman John Russell said: "The court reaffirmed the conviction of [Steven A.] Knox, which is a plus for the government. It just didn't buy our arguments."

The decision came in the case of Knox vs. the United States, in which Knox sought to overturn his conviction for possession of child pornography. His conviction was based on videotapes showing young girls wearing bathing suits, leotards and panties and spreading their legs. He was sentenced to five years in prison.

Knox argued the tapes were not pornographic because the girls were not naked. But the 3rd Circuit, in an October 1992 ruling, said nudity is not a prerequisite for



Rep. Christopher H. Smith hails "a victory for exploited children."

violations of pornography statutes.

Knox appealed to the Supreme Court, which agreed to hear his case. But, in an abrupt reversal, the Clinton administration's Justice Department asked that the case — which had been prosecuted during the Bush administration — be remanded to the 3rd Circuit for reconsideration.

On Nov. 1, the high court sent the case back to the appeals court, based on the Justice Department's

weaker and narrower interpretation of the 1984 Child Protection Act.

The new standard proposed by Justice limited child pornography to material displaying a child's genitals and depicting a child "lasciviously engaging in sexual conduct, as distinct from lasciviousness on the part of the photographer or the consumer."

Justice subsequently sought to have the 3rd Circuit remand the case to a lower court so that Knox could be tried under the new standard.

But in its ruling yesterday, the 3rd Circuit dismissed government arguments that its original decision was not proper and that it had applied an "unconstitutionally overbroad" interpretation of the Child Protection Act.

Said the court in its written opinion: "We hold that a 'lascivious exhibition of the genitals or pubic area' of a minor necessarily requires only that the material depict some 'sexually explicit conduct' by the minor subject which appeals to the lascivious interest of the intended audience."

The appeals court further held that a "lascivious exhibition of the genitals or pubic area" encompasses visual depiction of a child's genitals or pubic area even when these areas are covered by an article of clothing and are not discernible."

Lawrence Stanley, Knox's attorney, said: "It's unfortunate that the 3rd Circuit reaffirmed its position."

Mr. Stanley called the court's decision "result-oriented rather than a careful analysis of real jurisprudence," adding that he will appeal his client's conviction. But he said he's fearful the Supreme Court might refuse to review the matter a second time.

If the high court reviews the case, "I absolutely believe Mr. Knox's conviction will be reversed and vacated by the Supreme Court," Mr. Stanley said.

Mr. Russell said government lawyers are still studying the ruling and do not know if they again will ask the Supreme Court to review the case.

"The Justice Department position now has been repudiated by two branches of government: Congress and the judiciary," Sen. Charles E. Grassley, Iowa Republican, said in a statement.

Mr. Grassley sponsored a resolution, which passed the Senate in November by a vote of 100-0, that denounced the Justice Department's bid to redefine what constitutes child pornography.

Mr. Smith sponsored a similar resolution on the House side, which passed in April by a vote of 425-3.

Lawyer still trying to get back suitcase full of kiddie porn

By Joyce Price
THE WASHINGTON TIMES

A defense attorney handling a child pornography case that prompted President Clinton to criticize his own attorney general is battling the Justice Department to recover child pornography seized from his apartment.

The Justice Department, in court documents tied to the seizure of the pornographic material, described New York lawyer Lawrence A. Stanley as an "aggressive advocate of sex between adults and children."

Mr. Stanley, 38, called the government's characterizations of him "ridiculous," saying his advocacy lies in the protection of First Amendment free-speech rights.

He currently is representing Stephen A. Knox, a Pennsylvania man convicted in 1991 for possessing child pornography.

Knox's conviction could be overturned if the courts uphold a weaker interpretation of federal child-pornography standards, a move backed by the Justice Department and criticized by both Mr. Clinton and a highly unusual unanimous resolution passed by the Senate.

In a Nov. 10 letter to Attorney General Janet Reno, Mr. Clinton wrote: "I fully agree with the Senate about what the proper scope of the child pornography law should be. . . . I find all forms of child pornography offensive and harmful, as I know you do."

The 3rd Circuit Court of Appeals in Philadelphia is scheduled to begin hearing the Knox case today.

In a telephone interview, Mr. Stanley, who has written articles for the North American Man-Boy Love Association's NAMBLA Bulletin and Paedick's *The Journal of Paedophilia*, said he has a professional need for the government to return the material showing children engaged in sexual activities.

"This stuff is definitely child pornography. But I was doing a study for the Institute for the Advanced Study of Human Sexuality in San Francisco, and I've brought a motion to get the material back so the study can be completed," he said.

The Institute for the Advanced

Study of Human Sexuality is a private, state-approved but unaccredited, graduate school, located in San Francisco.

The materials seized from Mr. Stanley's apartment were not a part of the Knox case.

In December 1989, he was indicted after authorities seized a suitcase containing pornographic materials, according to Justice Department documents filed in the case.

The materials had been brought into the country from France in August 1989 by Donald Marcus, a North Carolina man indicted for importing child pornography and whom Mr. Stanley identified as a client.

Ruth A. Nordenbrook, senior litigation counsel in the U.S. Attorney's Office in New York's Eastern District, said Mr. Stanley argued that his possession of child pornography was linked to his defense of Mr. Marcus, who has eluded authorities.

The judge denied Mr. Stanley's motion for a dismissal of the charge of transporting child pornography.

He was tried and acquitted early last year.

Mr. Stanley is waiting for a hearing date for his motion to get back the pornography that was taken.

"We're fighting his motion because he's not entitled to get back explicit pornography," said Stacy Caplow, special assistant U.S. attorney in New York's Eastern District.

In pretrial documents, the Justice Department also said U.S. postal inspector John McDermott and federal attorney J. Robert Flores "learned that the defendant had sexually molested a young girl in Canada and had had relationships with other girls approximately the same age."

Mr. Stanley, who is married, called the charges that he had sexual contact with minors "completely false . . . trumped-up charges, instigated by the government."

He said he is the victim of unwarranted criminal investigations prompted by his article, "Child Pornography Myth," published in *Playboy* in 1988.

In August 1990, Mr. Stanley was

LAWRENCE STANLEY'S RESUME

The following information was derived from Mr. Stanley's "curriculum vitae" included in briefs filed by the Justice Department in the U.S. District Court, Eastern District of New York after his 1991 indictment on transporting child pornography. He was acquitted last year.

Professional experience:

- Engaged in "research in the legal, sociological, criminological and psychological ramifications of child pornography, adult pornography, pedophilia, and adult-child sexual contacts" since 1984.
- "Interviews and conversations with numerous defense attorneys and defendants in the U.S. and Europe; consultations with sex researchers, adult bookstore owners, adult porn filmmakers, adults who are sexually attracted to children; review of a wide range of child pornographic materials from the 1870s through the present; and thorough research of government documents and reports; law enforcement publications; and thousands of newspaper, magazine, and professional journal articles concerning these topics."
- "Conducted a study of seizures by U.S. Customs Service of materials alleged to be pornographic coming into the U.S. through J.F.K. Airport" from February 1984 through May 1986.
- "Attorney of record and/or legal consultant on various child pornography prosecutions and custom seizure matters in New York, California, Ohio, Tennessee, Virginia, Michigan, Louisiana, and Amsterdam, The Netherlands."

Publications (This list does not include all that Mr. Stanley mentioned in his resume nor all cited by Justice Department in its briefs):

- "The Child Porn Myth," *Cardozo Arts & Entertainment Law Journal*, 1989.
- "The Child Pornography Myth," *Playboy*, September 1988.
- "The Hysteria Over Child Pornography and Pedophilia," *Paedick: The Journal of Paedophilia*, 1987.
- "Dutch Raid Bookshop," *Gay Community News*, May 1987.
- "Setting the Record Straight," *Bare In Mind*, May 1987.
- "Child Pornography Issue Has Been Exploited by the Right Wing," *American Sunbathing Association Bulletin*, June 1987.

Professional appearances:

- Society for the Scientific Study of Sex, Nov. 11, 1989. Symposium: Paedophilia and Adult-Child Sexual Contacts — Continuities and Discontinuities. "Sexual Attraction and Sexual Meaning Among a Group of Men Erotically Attracted to Pre-Pubertal or Near-Pubertal Girls." Moderator of panel, paper presentation.
- Future of Freedom Conference, San Francisco, March 31, 1989. Speech: "Pornography, Privacy, and Government Intrusion."
- Society for the Scientific Study of Sex, Annual Conference, Nov. 12, 1988. Symposium moderator: "A Critical Evaluation of the New Research on Child Sex Abuse, Incest, and Pedophilia: Psychological, Social, and Legal Perspectives." Paper presentation: "Legal and Social Ramifications of Rhetorical Claims-Making."
- Institute for the Advanced Study of Human Sexuality in San Francisco, Oct. 10, 1988. One-Day Seminar for graduate students titled "Child Pornography: Clinical and Criminological Responses."
- Clara Fey Institute, Roermond, Holland, Dec. 29, 1987. Lectured on legal, criminological, and psychological perspectives concerning child pornography and adult-child sexual contact in the United States.
- Society for the Scientific Study of Sex, April 4, 1987, East Coast Regional Conference, "The Hysteria over Child Pornography and Pedophilia."

charged with "sexual aggression" against a child under 14, according to authorities in Laval, Quebec. A warrant never was served because Mr. Stanley was not located, the Canadian authorities said.

While Mr. Stanley acknowl-

edged he has represented many defendants in child-pornography cases, he said he only recently took his first client charged with having sex with children and then only because he believes the man is not guilty.