

NARSOL quoted in reference to umbrella internet policy for those on probation in CO

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By [Michaek Karlik](#) . . . It does not violate the First Amendment for a court to impose broad restrictions on a sex offender's use of the Internet and social media during his sentence, the Court of Appeals decided on Thursday.

A three-judge appellate panel rejected the claims of Christopher David Landis that such limitations violated Colorado law, as well as federal and state constitutional protections on free speech.

"While we fully acknowledge that, to date, the internet has become one of the most important places, if not the most important place, for people to exchange views and ideas, under the circumstances here, we disagree with both of Landis's contentions," wrote Judge Janice B. Davidson in [the panel's opinion](#). . . .

Although trial courts have broad discretion to impose

probationary conditions, they must be related to the offense and cannot be unnecessarily severe or restrictive. Deputy State Public Defender Jeanne Segil told the appellate panel during oral arguments last year that such a broad curtailment of her client's online activity – including through apps and smart phones and streaming devices – had no bearing on his original crime. . . .

Judge Craig R. Welling appeared sympathetic to that argument, as he pressed the government to justify the purpose of the “broadest possible ban that you could impose.”

“There's no need to stop him from paying his Xcel bill on his home computer,” Welling observed. “Why couldn't these terms and conditions be more constrained? More targeted toward protecting public safety?” . . .

Ultimately, the appellate judges decided probation [inherently involves restrictions](#) on a defendant's liberty.

“To be sure, Landis did not use the internet in attempting to sexually assault” the victim, wrote Davidson, a retired judge who had replaced Welling on the panel by the time the opinion was issued. “However, he engaged in sexual conduct with a child, and it was reasonable to place restrictions on Landis's use of a medium that easily can be used to facilitate contact with children.” . . .

In response to the ruling, Sandy Rozek, communications director for the National Association for Rational Sex Offense Laws, questioned whether there were any data supporting the notion that a person would reoffend using the Internet even if they had not committed the original offense with a computer.

“It reminds me of a joke about a game warden who was going to give a ticket for fishing without a license to a woman who was sitting in her husband's boat, tied to the dock, reading a book,” Rozek described. “She said she wasn't fishing. He said, ‘Boat, rods, bait; you've got all the equipment here and could

start fishing any minute.' She then informed him she would be charging him with rape. When he protested that he hadn't touched her, she said, 'Yeah, but you've got all the equipment. How do I know you wouldn't start any minute?'"

The case is [People v. Landis](#).

[The full piece is published at Colorado Politics.](#)