NARSOL to SCOTUS: Prosecutors must prove intent

Civil rights organization asks Court to review burden of proof standard

Raleigh, North Carolina | March 16, 2021 -- Currently before the U.S. Supreme Court is a case out of Arizona in which a person who suffers from a neurological condition called ataxia was found guilty of child molestation for briefly touching children over their clothing in public and in full view of numerous adults and other children.

He is not guilty of molesting any children, but he may spend the rest of his life in prison.

The National Association for Rational Sexual Offense Laws (NARSOL) has filed a first-of-its kind “friend of the Court” brief in support of a pending petition for a writ of certiorari before the U. S. Supreme Court. At issue in this case is the widespread practice of presuming intent in sexually-based offenses throughout the nation.

Possess child pornography? You must surely have intended to. Touched a young child? You must surely have done so for sexual arousal. Text a teenager? You must surely desire to have sex with a child.

In case after case for more than a decade, prosecutors at the state and local level of our nation’s labyrinthine criminal justice system have approached sexually-based offenses as if they were strict liability cases requiring no more proof of intent than is required for a speeding violation.

In Arizona, defendants accused of sexually-based offenses that involve touching are statutorily required to prove that the intent of such touching was innocent. In other words, according to Arizona law, criminal intent is presumed whenever there is a touching, no matter how innocent or unintended.

“It is nearly impossible to imagine anything more un-American than to be charged with a crime as serious as child molestation and it be assumed that you touched someone for a sexual reason,” said Brenda Jones, NARSOL’s executive director.

“We’re hoping the Court will recognize what’s at stake in this case. The presumption of innocence is under attack and not just for people facing sex charges. This burden-shifting phenomenon is seeping into other criminal offenses, as well. Every American should be alarmed and concerned,” Jones concluded.

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NARSOL is the nation’s largest civil rights organization advocating on behalf of registered citizens and their families. NARSOL opposes dehumanizing registries and works to eliminate discrimination, banishment, and vigilantism against persons accused or convicted of sexual offenses through the use of impact litigation, public education, legislative advocacy, and media outreach in order to reintegrate and reconcile affected individuals and restore their constitutional rights.