

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT L. BRYANT and	§	
ROBERT C. LANDIS,	§	No. 140, 2000
	§	
Defendants Below,	§	Certification of Question of
Appellants,	§	Law from the Superior Court
	§	of the State of Delaware
v.	§	in and for New Castle County
	§	
STATE OF DELAWARE,	§	Cr. ID Nos. 9906011399
	§	and 9910002102
Plaintiff Below,	§	
Appellee.	§	

Submitted: January 30, 2001

Decided: April 25, 2001

Before **HOLLAND, BERGER AND STEELE**, Justices.

O R D E R

This 25th day of April, 2001, upon consideration of the briefs and arguments of the parties, it appears to the Court that:

(1) By Order dated April 11, 2000, this Court accepted certification of the following question of law posed by the Superior Court:

Whether 11 *Del.C.* § 205(e), adopted in 1992 to extend the statute of limitations for certain sexual offenses against minors, permits the State to prosecute defendants for sexual offenses alleged to have occurred prior to the enactment of § 205(e), but before the expiration of the five year limitations period, § 205 (b)(1), which was applicable before the adoption of § 205(e)?

(2) The relevant undisputed facts, as set forth by the Superior Court in its certification, are:

(a) On August 30, 1999, Defendant Bryant was charged by indictment with seven counts of Unlawful Sexual Intercourse First Degree in violation of former 11 *Del.C.* § 775. The acts are alleged to have occurred between September 1, 1987 and June 30, 1989. During the relevant time period, the complaining witness was under the age of 18;

(b) On October 25, 1999, Defendant Landis was charged by indictment with four counts of Unlawful Sexual Contact Second Degree in violation of 11 *Del.C.* § 768. The acts are alleged to have occurred between July 15, 1987 and July 15, 1990. During the relevant time period, the complaining witness was under the age of 18;

(c) The statute of limitations in effect at the time of the alleged offenses, 11 *Del.C.* § 205(b)(1), was five years;

(d) On July 15, 1992, subsequent to the alleged offenses but prior to the expiration of the five-year limitation period, the Delaware Legislature amended 11 *Del.C.* § 205 as follows:

(e) If the period prescribed by subsection (b) of this section has expired, a prosecution for any sexual offense in which the accused's acts include or constitute any of those crimes delineated in §§ 767-768 and § 1108 of this title where the victim of such sexual offense was a child under the age of 18 at the time of its occurrence, such prosecution may be commenced within 2 years following its initial disclosure to the Delaware Division of Child Protective Services or to an appropriate law enforcement agency.

(e) The State has initiated prosecution of the defendants within the period defined by the 1992 amendment of 11 *Del.C.* § 205(e): (1) each of the complaining witnesses was under the age of 18 at the time of the alleged offenses; (2) the criminal actions were commenced within two years following the initial disclosure of sexual abuse by the complaining witness to the Delaware Division of Child Protective Services or to an appropriate law enforcement agency.

(3) The rules of statutory construction are well settled: (1) the goal is to “ascertain and give effect to the intent of the legislature;”¹ (2) “[w]here the intent of the legislature is clearly reflected by unambiguous language in the statute, the language itself controls;”² and (3) criminal statutes “must be construed according to the fair import of their terms to promote justice and effect the purposes of the law....”³

(4) Applying these rules, we conclude that § 205(e) operates prospectively to extend the statute of limitations, in specified circumstances, for crimes that occurred within five years of its enactment. This result is mandated by the language of the statute.

(5) Section 205(b)(1) sets a five year statute of limitations for all felonies other than murder. But the five year period set in that subsection is subject to modification “as otherwise provided in [the statute].” Section 205(e) is one of several subsections that modify the limitations period specified in § 205(b). It provides that, “[i]f the period prescribed by subsection (b) has expired,” certain sexual offenses committed against a child may be prosecuted within two years after

¹*Ingram v. Thorpe*, Del. Supr., 747 A.2d 545, 547 (2000).

²*Spielberg v. State*, Del. Supr., 558 A.2d 291, 293 (1989).

³ 11 *Del.C.* § 203.

disclosure of the offense. By its terms, § 205(e) does not have any application within the first five years after the offense was committed. It only becomes operative if the five year “period prescribed by subsection (b) has expired.”

(6) In this case, it is undisputed that the five year limitations period specified in § 205(b) had not expired at the time that § 205(e) became law. As a result, when the five years did expire, § 205(e) was part of the law of this State and its extended statute of limitations applies to the offenses at issue.

NOW, THEREFORE, IT IS ORDERED that the certified question be answered in the affirmative.

BY THE COURT:

/s/ Carolyn Berger
Justice