

THURSDAY, APRIL 24, 2008
10:00 A.M.

NO. 2

#24619

THE PEOPLE OF THE STATE OF
SOUTH DAKOTA IN THE INTEREST
OF Z.B., A MINOR CHILD
AND CONCERNING A.B. and H.B.
RESPONDENTS.

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(FOR APPELLANT Z.B.)

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(FOR APPELLEE STATE)

The Honorable John W. Bastian
Fourth Judicial Circuit
Butte County

(JUV 07-06)

I.

WHETHER SDCL § 22-24B-2 CONFLICTS WITH TITLE 26 OF THE SOUTH DAKOTA CODIFIED LAWS THEREBY VIOLATING THE EXCLUSIVE JURISDICTION OF JUVENILE COURTS.

Most relevant cases: In re Gault, 387 U.S. 1, 87 S.Ct. 1428, 18 L.Ed.2d 527 (1967); People in Interest of L.V.A., 248 N.W.2d 864 (S.D. 1976); State v. Jones, 521 N.W.2d 662 (SD 1994); People in Interest of D.R. v. Rios, 499 N.W.2d 906 (SD 1993).

II.

WHETHER THE APPLICATION OF SDCL 22-24B-2 TO A 15-YEAR-OLD CHILD ADJUDICATED DELINQUENT FOR CERTAIN CRIMINAL SEXUAL CONDUCT VIOLATES THE DUE PROCESS CLAUSE OF THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION AND ARTICLE VI, § 2, OF THE SOUTH DAKOTA CONSTITUTION.

Most relevant cases: Lassiter v. Dep't of Social Services, 452 U.S. 18, 101 S.Ct. 2153; 68 L.Ed.2d 640 (1981); In re Gault, 387 U.S. 1, 87 S.Ct. 1428, 18 L.Ed.2d 527 (1967); State v. Jones, 521 N.W.2d 662 (SD 1994); State v. Lohnes, 324 N.W.2d 409, 414 (SD 1982).

III.

WHETHER THE APPLICATION OF SDCL 22-24B-2 TO A 15-YEAR-OLD CHILD ADJUDICATED DELINQUENT FOR CERTAIN CRIMINAL SEXUAL CONDUCT VIOLATES THE RIGHT TO EQUAL PROTECTION GUARANTEED UNDER THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND ARTICLE VI, § 18, OF THE SOUTH DAKOTA CONSTITUTION.

Most relevant cases: Behrns v. Burke, 89 S.D. 96, 229 N.W.2d 86, 88 (SD 1975); City of Cleburne v. Cleburne Living Ctr., 473 U.S. 432, 439, 105 S. Ct. 3249, 3254, 87 L. Ed. 2d 313, 320 (1985); State v. Krahwinkel, 656 N.W.2d 451 (SD 2002); State v. King, 82 S.D. 514, 516, 149 N.W.2d 509, 510 (SD 1967).

IV.

WHETHER APPLICATION OF SDCL 22-24B-2 TO A 15-YEAR-OLD CHILD ADJUDICATED DELINQUENT FOR CERTAIN CRIMINAL SEXUAL CONDUCT CONSTITUTES CRUEL AND UNUSUAL PUNISHMENT UNDER THE EIGHTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION AND ARTICLE VI, § 23, OF THE SOUTH DAKOTA CONSTITUTION.

Most relevant cases: State v. Bonner, 1998 SD 30, P13, 577 N.W.2d 575 (1998); Roper v. Simmons, 543 U.S. 551, 125 S.Ct. 1183, 161 L.Ed.2d 1 (2005); Harmelin v. Michigan, 501 U.S. 957, 111 S. Ct. 2680, 115 L. Ed. 2d 836 (1991); Naovarath v. State, 105 Nev. 525, 779 P.2d 944 (Nev 1989).