SUPREME COURT OPINIONS OF THURGOOD MARSHALL. STANLEY v. GEORGIA (1969) MR. JUSTICE MARSHALL delivered the opinion of the Court. An investigation of appellant's alleged bookmaking activities led to the issuance of a search warrant for appellant's home. Under authority of this warrant, federal and state agents secured entrance. They found very little evidence of bookmaking activity, but while looking through a desk drawer in an upstairs bedroom, one of the federal agents, accompanied by a state officer, found three reels of eight-millimeter film. Using a projector and screen found in an upstairs living room, they viewed the films. The state officer concluded that they were obscene and seized them. Since a further examination of the bedroom indicated that appellant occupied it, he was charged with possession of obscene matter and placed under arrest. He was later indicted for "knowingly having in possession of ... obscene matter" in violation of Georgia law. Appellant was tried before a jury and convicted. The Supreme Court of Georgia affirmed. Stanley v. State, 224 Ga. 259, 161 S.E.2d 309 (1968). We noted probable jurisdiction of an appeal brought under 28 U.S.C. 1257 (2). 393 U.S. 819 (1968). " Any person who shall knowingly bring or cause to be brought into this State for sale or exhibition, or who shall knowingly sell or offer to sell, or who shall knowingly lend or give away or offer to lend or give away, or who shall knowingly have possession of, or who shall knowingly exhibit or transmit to another, any obscene matter, or who shall knowingly advertise for sale by any form of notice, printed, written, or verbal, any obscene matter, or who shall knowingly manufacture, draw, duplicate or print any obscene matter with intent to sell, expose or circulate the same, shall, if such person has knowledge or reasonably should know of the obscene nature of such matter, be guilty of a felony, and, upon conviction thereof, shall be punished by confinement in the penitentiary for not less than one year nor more than five years: Provided, however, in the event the Page 559 jury so recommends, such person may be punished as for a misdemeanor. As used herein, a matter is obscene if, considered as a whole, applying contemporary community standards, its predominant appeal is to prurient interest, i. e., a shameful or morbid interest in nudity, sex or excretion." Ga. Code Ann. 26-6301 (Supp. 1968). Appellant raises several challenges to the validity of his conviction. We find it necessary to consider only one. Appellant argues here, and argued below, that the Georgia obscenity statute, insofar as it punishes mere private possession of obscene matter, violates the First Amendment, as made applicable to the States by the Fourteenth Amendment. For reasons set forth below, we agree that the mere private possession of obscene matter cannot constitutionally be made a crime. Appellant does not argue that the films are not obscene. For the purpose of this opinion, we assume that they are obscene under any of the tests advanced by members of this Court. The court below saw no valid constitutional objection to the Georgia statute, even though it extends further than the typical statute forbidding commercial sales of obscene material. It held that "[i]t is not essential to an indictment charging one with possession of obscene matter that it be alleged that such possession was `with intent to sell, expose or circulate the same.'" Stanley v. State, supra, at 261, 161 S.E.2d, at 311. The State and appellant both agree that the question here before us is whether "a statute imposing criminal sanctions upon the mere [knowing] possession of obscene matter" is constitutional. In this context, Georgia concedes that the present case appears to be one of "first impression ... on this exact point," but contends that since "obscenity is not within the area of constitutionally protected speech or press," Roth v. United States, 354 U.S. 476, 485 (1957), the States are free, subject to the limits of other provisions of the Constitution, see, e. g., Ginsberg v. New York, 390 U.S. 629, 637-645 (1968), to deal with it any way deemed necessary, just as they may deal with possession of other things thought to be detrimental to the welfare of their citizens. If the State can protect the body of a citizen, may it not, argues Georgia, protect his mind? The issue was before the Court in Mapp v. Ohio, 367 U.S. 643 (1961), but that case was decided on other grounds. MR. JUSTICE STEWART, although disagreeing with the majority opinion in Mapp, would have reversed the judgment in that case on the ground that the Ohio statute proscribing mere possession of obscene material was "not `consistent with the rights of free thought and expression assured against state action by the Fourteenth Amendment.'" Id., at 672. It is true that Roth does declare, seemingly without qualification, that obscenity is not protected by the First Amendment. That statement has been repeated in various forms in subsequent cases. However, neither Roth nor any subsequent decision of this Court dealt with the precise problem involved in the present case. Roth was convicted of mailing obscene circulars and advertising, and an obscene book, in violation of a federal obscenity statute. The defendant in a companion case, Alberts v. California, 354 U.S. 476 (1957), was convicted of "lewdly keeping for sale obscene and indecent books, and [of] writing, composing and publishing an obscene advertisement of them...." Id., at 481. None of the statements cited by the Court in Roth for the proposition that "this Court has always assumed that obscenity is not protected by the freedoms of speech and press" were made in the context of a statute punishing mere private possession of obscene material; the cases cited deal for the most part with use of the mails to distribute objectionable material or with some form of public distribution or dissemination. Moreover, none of this Court's decisions subsequent to Roth involved prosecution for private possession of obscene materials. Those cases dealt with the power of the State and Federal Governments to prohibit or regulate certain public actions taken or intended to be taken with respect to obscene matter. Indeed, with one exception, we have been unable to discover any case in which the issue in the present case has been fully considered. Many of the cases involved prosecutions for sale or distribution of obscene materials or possession with intent to sell or distribute. See Redrup v. New York, 386 U.S. 767 (1967); Mishkin v. New York, 383 U.S. 502 (1966); Ginzburg v. United States, 383 U.S. 463 (1966); Jacobellis v. Ohio, 378 U.S. 184 (1964); Smith v. California, 361 U.S. 147 (1959). Our most recent decision involved a prosecution for sale of obscene material to children. Ginsberg v. New York, 390 U.S. 629 (1968); cf. Interstate Circuit, Inc. v. City of Dallas, 390 U.S. 676 (1968). Other cases involved federal or state statutory procedures for preventing the distribution or mailing of obscene material, or procedures for predistribution approval. See Freedman v. Maryland, 380 U.S. 51 (1965); Bantam Books, Inc. v. Sullivan, 372 U.S. 58 (1963); Manual Enterprises, Inc. v. Day, 370 U.S. 478 (1962). Still another case dealt with an attempt to seize obscene material "kept for the purpose Page 562 of being sold, published, exhibited ... or otherwise distributed or circulated...." Marcus v. Search Warrant, 367 U.S. 717, 719 (1961); see also A Quantity of Books v. Kansas, 378 U.S. 205 (1964). Memoirs v. Massachusetts, 383 U.S. 413 (1966), was a proceeding in equity against a book. However, possession of a book determined to be obscene in such a proceeding was made criminal only when "for the purpose of sale, loan or distribution." Id., at 422. The Supreme Court of Ohio considered the issue in State v. Mapp, 170 Ohio St. 427, 166 N.E.2d 387 (1960). Four of the seven judges of that court felt that criminal prosecution for mere private possession of obscene materials was prohibited by the Constitution. However, Ohio law required the concurrence of "all but one of the judges" to declare a state law unconstitutional. The view of the "dissenting" judges was expressed by Judge Herbert: "I cannot agree that mere private possession of ... [obscene] literature by an adult should constitute a crime. The right of the individual to read, to believe or disbelieve, and to think without governmental supervision is one of our basic liberties, but to dictate to the mature adult what books he may have in his own private library seems to the writer to be a clear infringement of his constitutional rights as an individual." 170 Ohio St., at 437, 166 N.E.2d, at 393. Shortly thereafter, the Supreme Court of Ohio interpreted the Ohio statute to require proof of "possession and control for the purpose of circulation or exhibition." State v. Jacobellis, 173 Ohio St. 22, 27-28, 179 N.E.2d 777, 781 (1962), rev'd on other grounds, 378 U.S. 184 (1964). The interpretation was designed to avoid the constitutional problem posed by the "dissenters" in Mapp. Other cases dealing with nonpublic distribution of obscene material or with legitimate uses of obscene material have expressed similar reluctance to make such activity criminal, albeit largely on statutory grounds. In United States v. Chase, 135 U.S. 255 (1890), the Court held that federal law did not make criminal the mailing of a private sealed obscene letter on the ground that the law's purpose was to purge the mails of obscene matter "as far as was consistent with the rights reserved to the people, and with a due regard to the security of private correspondence...." 135 U.S., at 261. The Page 563 law was later amended to include letters and was sustained in that form. Andrews v. United States, 162 U.S. 420 (1896). In United States v. 31 Photographs, 156 F. Supp. 350 (D.C. S.D. N.Y. 1957), the court denied an attempt by the Government to confiscate certain materials sought to be imported into the United States by the Institute for Sex Research, Inc., at Indiana University. The court found, applying the Roth formulation, that the materials would not appeal to the "prurient interest" of those seeking to import and utilize the materials. Thus, the statute permitting seizure of "obscene" materials was not applicable. The court found it unnecessary to reach the constitutional questions presented by the claimant, but did note its belief that "the statement ... [in Roth] concerning the rejection of obscenity must be interpreted in the light of the widespread distribution of the material in Roth." 156 F. Supp., at 360, n. 40. See also Redmond v. United States, 384 U.S. 264 (1966), where this Court granted the Solicitor General's motion to vacate and remand with instructions to dismiss an information charging a violation of a federal obscenity statute in a case where a husband and wife mailed undeveloped films of each other posing in the nude to an out-of-state firm for developing. But see Ackerman v. United States, 293 F.2d 449 (C.A. 9th Cir. 1961). In this context, we do not believe that this case can be decided simply by citing Roth. Roth and its progeny certainly do mean that the First and Fourteenth Amendments recognize a valid governmental interest in dealing with the problem of obscenity. But the assertion of that interest cannot, in every context, be insulated from all constitutional protections. Neither Roth nor any other decision of this Court reaches that far. As the Court said in Roth itself, "[c]easeless vigilance is the watchword to prevent ... erosion [of First Amendment rights] by Congress or by the States. The door barring federal and state intrusion into this area cannot be left ajar; it must be kept tightly closed and opened only the slightest crack necessary to prevent encroachment upon more important interests." 354 U.S., at 488. Roth and the cases following it discerned such an "important interest" in the regulation of commercial distribution of obscene material. That holding cannot foreclose an examination of the constitutional implications of a statute forbidding mere private possession of such material. It is now well established that the Constitution protects the right to receive information and ideas. "This freedom [of speech and press] ... necessarily protects the right to receive...." Martin v. City of Struthers, 319 U.S. 141, 143 (1943); see Griswold v. Connecticut, 381 U.S. 479, 482 (1965); Lamont v. Postmaster General, 381 U.S. 301, 307-308 (1965) (BRENNAN, J., concurring); cf. Pierce v. Society of Sisters, 268 U.S. 510 (1925). This right to receive information and ideas, regardless of their social worth, see Winters v. New York, 333 U.S. 507, 510 (1948), is fundamental to our free society. Moreover, in the context of this case — a prosecution for mere possession of printed or filmed matter in the privacy of a person's own home — that right takes on an added dimension. For also fundamental is the right to be free, except in very limited circumstances, from unwanted governmental intrusions into one's privacy. "The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone — the most comprehensive of rights and the right most valued by civilized man." Olmstead v. United States, 277 U.S. 438, 478 (1928) (Brandeis, J., dissenting). See Griswold v. Connecticut, supra; cf. NAACP v. Alabama, 357 U.S. 449, 462 (1958). These are the rights that appellant is asserting in the case before us. He is asserting the right to read or observe what he pleases — the right to satisfy his intellectual and emotional needs in the privacy of his own home. He is asserting the right to be free from state inquiry into the contents of his library. Georgia contends that appellant does not have the right to read or observe what he pleases, that there are certain types of materials that the individual may not read or even possess. Georgia justifies this assertion by arguing that the films in the present case are obscene. But we think that mere categorization of these films as "obscene" is insufficient justification for such a drastic invasion of personal liberties guaranteed by the First and Fourteenth Amendments. Whatever may be the justifications for other statutes regulating obscenity, we do not think they reach into the privacy of one's own home. If the First Amendment means anything, it means that a State has no business telling a man, sitting alone in his own house, what books he may read or what films he may watch. Our whole constitutional heritage rebels at the thought of giving government the power to control men's minds. And yet, in the face of these traditions of individual liberty, Georgia asserts the right to protect the individual's mind from the effects of obscenity. We are not certain that this argument amounts to anything more than the assertion that the State has the right to control the moral content of a person's thoughts. To some, this may be a noble purpose, but it is wholly inconsistent with the philosophy of the First Amendment. As the Court said in Kingsley International Pictures Corp. v. Regents, 360 U.S. 684, 688-689 (1959), "[t]his argument misconceives what it is that the Constitution protects. Its guarantee is not confined to the expression of ideas that are conventional or shared by a majority.... And in the realm of ideas it protects expression which is eloquent no less than that which is unconvincing." Cf. Joseph Burstyn, Inc. v. Wilson, 343 U.S. 495 (1952). Nor is it relevant that obscene materials in general, or the particular films before the Court, are arguably devoid of any ideological content. The line between the transmission of ideas and mere entertainment is much too elusive for this Court to draw, if indeed such a line can be drawn at all. See Winters v. New York, supra, at 510. Whatever the power of the State to control public dissemination of ideas inimical to the public morality, it cannot constitutionally premise legislation on the desirability of controlling a person's private thoughts. "It is strongly argued that a dult s as pre sse d prim nity, at botto this, Geor ir ical basis a t in the con ie d t o p revent E merso n, Tow it mere p osses at they may le al w ould create a alt with public dist ater i al might fall in ed ru p v. New Yor ed to ca ses of c 6, 1 957); H. Pack we a re faced with the men t is based on alle , but even if th ey did ntal to our schem e o f in a, 361 U.S. 147 (1959). We hold that the First and Fourteenth Amendments prohibit making mere private possession of obscene material a crime. Roth and the cases following that decision are not impaired by today's holding. As we have said, the States retain broad power to regulate obscenity; that power simply does not extend to mere possession by the individual in the privacy of his own home. Accordingly, the judgment of the court below is reversed and the case is remanded for proceedings not inconsistent with this opinion. What we have said in no way infringes upon the power of the State or Federal Government to make possession of other types of printed, filmed, or recorded materials. It is so ordered. DANDRIDGE v. WILLIAMS (1970) MR. JUSTICE MARSHALL, whom MR. JUSTICE BRENNAN joins, dissenting making criminal possession of obscene matter a crime. Nor do we mean to express any opinion on statutes fringement of fundamental liberties protected by the First and Fourteenth Amendments. No First Amendment rights are involved in most statutes making mere possession criminal. Nor do we mean to express any opinio n on statute s making criminal possession of other types of printed, filmed, or recorded materials. It is so ordered. DANDRIDGE v. WILLIAMS (1970) MR. JUSTICE MARSHALL, whom MR. JUSTICE BRENNAN joins, dissenting. For the reasons stated by MR. JUSTICE DOUGLAS, to which I add some comments of my own, I believe that the Court has erroneously concluded that Maryland's maximum grant regulation is consistent with the federal statute. In my view, that regulation is fundamentally in conflict with the basic structure and purposes of the Social Security Act. More important in the long run than this misreading of a federal statute, however, is the Court's emasculation of the Equal Protection Clause as a constitutional principle applicable to the area of social welfare administration. The Court holds today that regardless of the arbitrariness of a classification it must be sustained if any state goal can be imagined that is arguably furthered by its effects. This is so even when the relation is such that the State, and even though the relationship demonstrates that its actual basis is something other than that asserted by the State, and even though the classification tends to accomplish the ascribed goals. The Court recognizes, as it must, that the distinction between the instant case and those in which the Court has found a "dramatically real factual differences exist is a candid recognition that the Court's decision. I At the outset, it should be emphasized that this case does not involve the Court's decision to day is wholly without precedent. I cannot subscribe to the dramatically different parts of the Court's decision to day is wholly without precedent. I cannot subscribe to the view that "[a]mong free men, the deterrents ordinarily to be applied to prevent California, 274 U.S. 357, 378 (1927) (Brandeis, J., concurring). See Given the present state of knowledge, the State may no more prohibit than it may prohibit possession of chemistry books on the rt rejected the necessity of proving that exposure to obscene materials its recipients to such conduct. 354 U.S., at 486-487. But the objections. For example, there is always the danger that obscene m t intrude upon the sensibilities or privacy of the general public. See R Model Penal Code provisions dealing with obscene materials ar e limit 962); see also Model Penal Code 207.10 and comment 4 (Tent. Draft No. Offenses and the Model Penal Code, 63 Col. L. Rev. 669 (1963). Finally, ssary incident to statutory schemes prohibiting distribution . That argue of actual distribution. We are not convinced that such difficulties exist ght to read or observe what he pleases. Because that right is so fundame he administration of otherwise valid criminal laws. See Smith v. Californi ate possession of obscene material a crime. Roth and the cases followin nity; that power simply does not extend to mere possession by the indiv s not inconsistent with this opinion. What we have said in no way infring me. Our holding in the present case turns upon the Georgia statute's in ng mere possession criminal. Nor do we mean to express any opinion on statute s making criminal possession of other types of printed, filmed, or recorded materials. It is so ordered. DANDRIDGE v. WILLIAMS (1970) MR. JUSTICE MARSHALL, whom MR. JUSTICE BRENNAN joins, dissenting. For the reasons stated by MR. 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