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SEX OFFENDERS - "NO CONTACT WITH CHILDREN"

by Jay Howell

What should the sentencing judge do to restrict a convicted sexual offender from further contact with children? In the past, judges sentencing convicted child molesters to some type of **probationary sentence**, would often include a provision that the defendant should have "no contact with children" during his probationary term. Obviously, the concept makes sense. Convicted child molesters **should** be restricted in their interaction with children.

However, recent decisions of our Florida appellate courts have tightened the requirements for these court orders. In one case, *Graham v. State*, 658 So.2d 642 (Fla. 5th DCA 1995), the defendant pled "no contest" to one count of lewd and lascivious assault upon a child. He was sentenced to two and a half years in prison, followed by twelve and a half years on probation. One of the conditions of probation was that he not associate with any female child under the age of 18. The appellate court found that the wording of the condition barring any contact with children was too broad because of the possibility of unintentional violation. The court was clear to state that defendants that have been convicted of sexual crimes against children could be prohibited from having contact with or living with other children if they were properly worded. In this case, the court concluded that the problem could be cured by providing that the defendant must have no unsupervised contact with minors. The court also stated that the defendant should not be barred from talking with his stepchildren on the telephone or corresponding with them by mail.

In *Woods v. State*, 711 So.2d 1182 (Fla. 2d DCA 1988), the Court of Appeal considered a case where the defendant was charged with multiple sex crimes involving a male child. The defendant was sentenced to ten years in prison followed by five years of probation. He was ordered to have no contact with children under the age of 17 until he completed an outpatient sexual offender program. The court

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concluded that the condition prohibiting him from any contact with children was too broad and may result in an unintentional violation. The court did approve language which would prohibit intentional, unsupervised contact with children under the age of 17 where no adult is present, until the defendant successfully completed an outpatient sex offender program.

The lesson for our courts is that greater attention should be devoted to the wording of sentencing language which prohibits the defendant's contact with a broad segment of the population. Since we want convicted sexual offenders to be restricted from certain interaction with children, we need to insure that sentencing requirements prohibiting the defendant's contact with a potential **victim** are upheld on appeal.

We can protect our children from contact with convicted child molesters and abusers if we are willing to carefully word these restrictions. It is an important issue that needs the attention of our criminal justice system.