

Pornography, Obscenity and Indecency

Terms:

Obscenity	Pornography
Blasphemy	Roth Test
Miller Test	Child Pornography

Assigned Cases:

Roth v. US; Miller v. CA; New York v. Ferber; Ashcroft v. Free Speech Coalition; Reno v. ACLU; FCC v. Pacifica; U.S. v. Williams

Questions for Reading Assigned Cases:

What does the concept of “contemporary community standards” mean in the day of mail order video sales, the Internet, and satellite TV? What is the meaning of “patently offensive”? And what should one do with the concept of indecency, which is even more difficult to define?

In *NY v. Ferber*, what is the difference that makes child pornography so different? Why may child pornography be prohibited even when it is not obscene? And, after *U.S. v. Williams*, does it matter if no actual children are involved (or that there is not, in fact, any actual pornography)?

Additional Cases:

Queen v. Hicklin (UK, 1868). This case defined the common law rule applied in the United States for many years. Material might be criminalized if “the tendency of matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences, and into whose hands a publication of this sort may fall.”

Stanley v. GA (1969). Private possession of obscene materials in one's home is not subject to prosecution because of privacy interest in one's own reading (or viewing) material.

Young v. American Mini-Theatres (1976). The Supreme Court upheld a Detroit ordinance that adult movie houses must be dispersed and could not be located within 1,000 feet of two other adult theatres, adult bookstores, burlesque joints, pool halls, hotels, dance halls, or taverns, nor within 500 feet of a residential area. At the same time, the Court did not allow Detroit to zone adult theatres so severely that they would be effectively prohibited.