

1 IN THE SUPREME COURT OF THE UNITED STATES

2 -----x
3 MASSACHUSETTS, :

4 Petitioner :

5 v. :

6 No. 87-1651

7 DOUGLAS DAKES :

8 -----x
9 Washington, D.C.

10 Tuesday, January 17, 1989

11 The above-entitled matter came on for oral
12 argument before the Supreme Court of the United States
13 at 12:59 o'clock p.m.

14 APPEARANCES:

15 JAMES M. SHANNON, ESQ., Attorney General of

16 Massachusetts, Boston, Massachusetts; on behalf of
17 the Petitioner.

18 RICHARD J. VITA, ESQ., Boston, Massachusetts; on behalf
19 of the Respondent.

1 one nude child harms that child?

2 MR. SHANNON: This is a case --

3 *Marshall* QUESTION: Does that study show that?

4 MR. SHANNON: Yes, Your Honor.

5 *Marshall* QUESTION: Where is that study? Will you tell
6 me please?

7 MR. SHANNON: Your honor, I -- I would refer
8 Your Honor to the Riseman Report which is contained in
9 the briefs of amici and to the numerous --

10 *Marshall* QUESTION: It says that one picture of a nude
11 child injures the child.

12 MR. SHANNON: Yes, Your Honor. I -- I think
13 that study after study has shown that taking pictures of
14 children in a state of nudity --

15 *Marshall* QUESTION: I didn't say what children. I said
16 a --

17 MR. SHANNON: One child, Your Honor.

18 *M* QUESTION: -- one picture of a, one, child.

19 MR. SHANNON: Your Honor, I believe that the
20 -- that it's clear that the reports, the studies, that
21 have been done both before Ferber and since Ferber show
22 that -- that posing children in that state does do them
23 -- posing a child in that state of nudity does --

24 *Marshall* QUESTION: Well, I want that quote. Where is
25 that quote?

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MR. SHANNON: I -- I can refer Your Honor to the -- to the Riseman Report.

Marshall
QUESTION: To the report that says the picture of one child taken one time injures that child.

MR. SHANNON: That any posing of a child in a state of nudity, Your Honor, can and does in many cases do harm to that child, that the child will experience shame, fear of blackmail, guilt, that pedophiles that typically take pictures of children as a way of lowering their inhibitions so that they can use them for their own sexual gratification.

Marshall
QUESTION: This includes a picture taken by a child that the child didn't know about?

MR. SHANNON: If the child later became aware that a picture had been taken. One of the cases in --

Marshall
QUESTION: That was not in my hypothetical. My hypothetical is the child is down on the beach in the nude and he sees nobody else out on the beach and somebody takes a picture, that that injures the child?

MR. SHANNON: If the child didn't know that a picture had been taken, I suppose the child would not -- would not be injured.

Marshall
QUESTION: Well, so, then your statement is not correct. The child is not injured automatically.

MR. SHANNON: The child might not be injured