

Cain Vs. Kentucky

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Court : US Supreme Court

Decided On : Mar-23-1970

Appeal No. : 397 U.S. 319

Appellant : Cain

Respondent : Kentucky

Judgement :

Cain v. Kentucky - 397 U.S. 319 (1970)

U.S. Supreme Court Cain v. Kentucky, 397 U.S. 319 (1970)

Cain v. Kentucky

No. 347

Decided March 23, 1970

397 U.S. 319

APPEAL FROM THE COURT OF APPEALS OF KENTUCKY

437 S.W.2d 769, reversed.

PER CURIAM.

The judgment is reversed. *Redrup v. New York*, [386 U. S. 767](#) .

MR. CHIEF JUSTICE BURGER, dissenting.

In my view, we should not inflexibly deny to each of the States the power to adopt and enforce its own standards as to obscenity and pornographic materials; States ought to be free to deal with varying conditions and problems in this area. I am unwilling to say that Kentucky is without power to bar public showing of this film; therefore, I would affirm the judgment from which the appeal is taken.

MR. JUSTICE HARLAN, dissenting.

If this case involved obscenity regulation by the Federal Government, I would unhesitatingly reverse the conviction, for the reasons stated in my separate opinion in *Roth v. United States*, [354 U. S. 476](#) , [354 U. S. 496](#) (1957). Even in light of the much greater flexibility that I have always thought should be accorded to the States in this field, see, e.g., my dissenting opinion in *Jacobellis v. Ohio*, [378 U. S. 184](#) , [378 U. S. 203](#) (1964), suppression of this

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particular film presents a borderline question. However, laying aside my own personal estimate of the film, I cannot say that Kentucky has exceeded the constitutional speed limit in banning public showing of the film within its borders, and, accordingly, I vote to affirm the judgment below.