

**Mccrary Vs. Oklahoma**

**Mccrary Vs. Oklahoma**

**SooperKanoon Citation :** [sooperkanoon.com/103419](http://sooperkanoon.com/103419)

**Court :** US Supreme Court

**Decided On :** 1973

**Appeal No. :** 414 U.S. 966

**Appellant :** Mccrary

**Respondent :** Oklahoma

**Judgement :**

MCCRARY v. OKLAHOMA - 414 U.S. 966 (1973)

U.S. Supreme Court MCCRARY v. OKLAHOMA , 414 U.S. 966 (1973)

414 U.S. 966

W. E. Mc CRARY

v.

State of OKLAHOMA.

No. 72-1648.

Supreme Court of the United States

October 23, 1973

On petition for writ of certiorari to the Court of Criminal Appeals of Oklahoma.

Petition for writ of certiorari granted, judgment vacated, and case remanded to the Court of Criminal Appeals of Oklahoma for further consideration in light of *Miller v. California*, [413 U.S. 15](#) (1973); *Paris Adult Theatre I v. Slaton*, [413 U.S. 49](#) , 93 S. Ct. 2628 (1973); *Kaplan v. California*, [413 U.S. 115](#) , 93 S. Ct. 2680 (1973); *United States v. 12 200-ft. Reels of Super 8 mm. Film*, [413 U.S. 123](#) (1973); *United States v. Orito*, [413 U.S. 139](#) (1973); *Heller v. New York*, [413 U.S. 483](#) (1973); *Roaden v. Kentucky*, [413 U.S. 496](#) (1973); and *Alexander v. Virginia*, [413 U.S. 836](#) (1973).

Mr. Justice BRENNAN, with whom Mr. Justice STEWART and Mr. Justice MARSHALL join, dissenting.

Petitioner was sentenced to 10 years in prison and fined \$5,000 when convicted for selling allegedly obscene books and magazines in violation of Title 21, 1021 of the Oklahoma Statutes, which provides as follows:

'Every person who wilfully . . . (3) writes, composes, stereotypes, prints, photographs, designs, copies, draws, engraves, paints, molds, cuts, or otherwise prepares, publishes, sells, distributes, keeps for sale, or exhibits any obscene or indecent writing, paper, book, picture, photograph, figure or form of any description; . . . is guilty of a felony and upon conviction therefor shall be punished by the imposition of a fine not less than One Hundred Dollars (\$100.00)

Page 414 U.S. 966 , 967

nor more than Five Thousand Dollars (\$5,000.00) or by imprisonment for not less than thirty (30) days nor more than ten (10) years, or by both such fine and imprisonment.'

It is my view that, 'at least in the absence of distribution to juveniles or obtrusive exposure to unconsenting adults, the First and Fourteenth Amendments prohibit the state and federal governments from attempting wholly to suppress sexually oriented materials on the basis of their allegedly 'obscene' contents.' *Paris Adult*

Theatre I v. Slaton, [413 U.S. 49, 113](#) (1973) (dissenting opinion). It is clear that, tested by that constitutional standard, 1021 is constitutionally overbroad and therefore invalid on its face. For the reasons stated in my Paris Adult dissent, I would therefore grant certiorari, vacate the judgment of the Court of Criminal Appeals of Oklahoma, and remand for further proceedings not inconsistent with my Paris Adult dissent.

Mr. Justice DOUGLAS, being of the view that state obscenity regulation is prohibited by the Fourteenth and First Amendments (see Paris Adult Theatre I v. Slaton, [413 U.S. 49, 70](#) ( Douglas, J., dissenting)), would grant certiorari in each of these cases and reverse the judgments of conviction.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**