

Class 11: Child Pornography Part 2 and Traveler Cases

Administrative

- Next Time: 264-70 (through note 6) and 277-97
 - Modified assignment!
 - Check website!
- News Wednesdays
 - Hacking allegations in TX Governor's Race **S**
 - Internet hostilities toward Obama Administration

Last Time

- Statutes +
- Browser Cache +

"Possession" and cache

Definition of receive/possess in Romm +

- Key facts
 - 16 images in downloaded files and 94 in recycle bins
 - 15k - 19k more found in Internet Cache
- Held
 - User had no knowledge of cache files, so no possession/control of the images.
- Reasoning
 - Most users don't know about cache.
 - Windows makes it hard to find and delete them (system-protected area)
 - No evidence he was sophisticated

Kuchinski

Note 2

- 42 images found in cache
- None stored separately

Romm

- Evidence showed D knew about cache files.
 - He had "cleared the cache"
 - He had enlarged some thumbnails
- Guilty

Tucker (10th Circuit)

- Appeal of case we didn't read
- Tucker conceded he knew the browser stored things in cache
 - Even though he might have wished it didn't.
- Guilty

Simone (Va Cir. Ct.)

- Searched for "lolitas" "pre-teens" and "pedophilia"
- No evidence he knew of cache
- Still possession
- Test: Did D "reach out and control the images at issue"

Different Responses

What is rule, and does it make sense?

Accidental Possession

- Examples
 - Pop-up ads
 - Innocently clicking a link not knowing it is CP
 - Viruses

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Child Pornography and the First Amendment



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Traveler Cases / Entrapment

