

Case of ross william ulbricht

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Judges, when poised to render sentencing, should not engage in fact-finding. New Jersey that the Sixth Amendment right to a jury trial a constitutional protection[] of surpassing importance prohibits judges from enhancing criminal sentences beyond statutory maximums based on facts other than those decided by the jury beyond a reasonable doubt or fact of prior conviction. Antipathy to entrusting the government with sentencing has existed since the nation's founding, preferring the " unanimous vote of 12 of fellow citizens. Thirty-one-year old Ross William Ulbricht, a first-time offender, received a much harsher sentence than prosecutors sought based not on charges presented to the jury, but rather on judicially found facts namely that he ordered several murders for hire. Although Mr. Ulbricht's case was not death penalty eligible, his sanction of life without possibility of parole, also referred to as " death-in-prison," is close on the punishment spectrum, and is severe and degrading, arbitrarily imposed, and ha[s] been condemned by members of the international community. Life without Parole: America's New Death Penalty? It is worth noting that other Silk Road-related defendants received significantly lighter sentences, ranging from ten years to 16 days, in disregard of the sentencing consideration to avoid unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar conduct.

Accordingly, this case presents an opportunity for the Court to address a type of modern activity web browsing that has weighed heavily in recent thinking about privacy concerns but has not been resolved. Moreover, as discussed below, the ability to access the Internet without being monitored by the government, absent probable cause, is essential to a modern free

society. It will be self-evident to many that what can be determined from examining only Internet histories is profoundly “ private” information. As discussed above, examinations of online activity have been highlighted as the type of intrusion into private matters that is of concern when other types of government searches are being considered by this and lower courts.

Amice believe that the Court will find that the same interests implicated in searches of a mobile phone also require a warrant based on probable cause before the government may monitor an individual’s web history reflexively relying on “ pre-digital analogue risks a significant diminution of privacy. However, the court below mechanically applied nearly forty-year-old precedent, believing that cases considering pen traps of the telephone number dialed was akin to government knowledge of what websites a person visits. Something as socially, politically, and personally important as website browsing history requires updated consideration of privacy rights by this Court before the government is given license to search it without probable cause.

While judicial fact-finding was historically initiated to afford judges a vehicle for lowering sentences, it has evolved to do the opposite Sentencing Facts after Booker. It also taints the criminal justice process as a whole in that fact discretion not only creates leeway for the expression of judicial biases; it also undermines the appeals process and adversarial litigation. Although these mechanisms are sometimes believed to put a beneficial check on trial courts, under fact discretion they lose their effectiveness.” Nicola and Andrei Shellfire, Judicial Fact Discretion. It is not problematic that the judge

considered background information beyond the conviction, but it is of concern that new, uncharged offenses were brought up at sentencing and informed the ultimate sentence, in violation of the Sixth Amendment. The challenge arises in line-drawing to permit suitable judicial discretion while the ability of judges to punish uncharged and acquitted conduct.