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The Crime of Entrapment forwarded again by Ted Hogan on September 17, 2010 as part of brief and statements to the Arizona Corporation Commission, Docket No. S-20714A-09-0553.



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The Crime of Entrapment

Vanity Fair December 2009 Issue No. 592, Ppages 248-249

The first Entrapment Defense upheld by the U.S. Supreme Court was in 1932

Randall Sorrels was convicted of selling whiskey in his home in Clyde, North Carolina.

Even though rebuffed by Randall several times, the “agent” posing as a friend’s army friend; enticed, induced, pleaded, and persisted in persuading Randall even though Randall was **NOT INCLINED** to do so.

Writing for the other justices, Chief Justice Charles Evans, called the methods used in his case as a **“prostitution of the criminal law.”**

He noted that the crime for which Sorrels was prosecuted by the government was the **“product of the creativity of its own officials.”**

Since that ruling, the issue of entrapment has come before the Supreme Court several times, and the arguments have traditionally become known as the “subjective” and the “objective tests.

The subjective test for entrapment considered primarily the defendant’s state of mind: Was the subject inclined to commit the crime anyway?

The objective test centered more on the action of the investigators: were their methods sufficient to induce an otherwise law abiding citizen to commit a crime?

The most recent ruling on entrapment, in 1992, went a way to knocking down the subjective test.

In 1982 a man ordered a magazine that did not exist! The *Boys Who Love Boys* magazine was the invention of the postal service. When Keith Jacobson went to the post office to pick up the magazine, he was arrested.

His conviction was overturned by the Supreme Court. In the majority opinion, Justice Byron White wrote, **“In their zeal to enforce the law . . . Government agents may not originate a criminal design, implant an innocent person’s mind the disposition to commit a criminal act, and then induce commission of the crime so that the Government may prosecute.”**

The justices did not address either the subject or objective tests directly, but they made it clear that predisposition alone did not mean guilt, **particularly if the crime was suggested by police to begin with.**