

The Supreme Court of the United Kingdom

GONERIL,)
)
Petitioner)
)
v .) **Criminal Case No. 2023-03**
)
THE KINGDOM,)
)
Respondent)

SCENARIO FOR *LEARY OF TREASON: GONERIL V. THE KINGDOM*

Weary of his responsibilities, an aging head of state, King Lear, decides “[t]o shake all cares and business from our age, [c]onferring them on younger strengths . . .” He intends to do this by “divesting” to each of his three daughters, Goneril, Regan and Cordelia, his interest in territory as their dowers. He plans to allocate more to the daughter who expresses greatest love for him. The first two proclaim their love extravagantly. But Cordelia, the youngest and her father’s favorite, “cannot heave [her] heart into her mouth,” and so says she loves and honors him consistent with her duties (to Lear now, and upon her eventual marriage, to her husband). Furious, Lear denies any territory to Cordelia; nevertheless, France’s king, one of her suitors, accepts her as his wife. Lear “invest[s]” the husbands of Goneril and Regan (respectively, the Dukes of Albany and Cornwall) jointly with his “power, [p]re-eminence, and all the large effects [t]hat troop with majesty.” But for himself he reserves the right, at his older daughters’ expense, to rotate his residence between them and to surround himself with 100 knights. He also “retain[s]” “[t]he name, and all th’addition to a king . . .”

Goneril and Regan soon fail to give Lear the honor he thinks he deserves as their father and king. They tire of hosting him and his knights and demand that Lear reduce the number in his retinue, eventually to zero. Deprived by his daughters of his knights and of housing for the knights, on a stormy night, Lear shelters in a hovel as his “wits begin to turn.” Cordelia then leads a force from France for his rescue.

Rivalries also plague the family of Lear’s contemporary and friend, the Duke of Gloucester. His illegitimate younger son, Edmund, plots to strip the inheritance from Gloucester’s older, legitimate son, Edgar. Edmund tricks their father into believing that Edgar seeks Edmund’s help to kill their father. When Gloucester urges Edmund to side with Cordelia’s effort to save Lear, Edmund instead informs Cornwall (Regan’s husband) of Cordelia’s return. For siding with Lear, Cornwall summarily names the old Gloucester a traitor and plucks out his eyes.

For siding with Lear’s older daughters, Cornwall names Edmund the new Duke of Gloucester (in place of his father). With a kiss, Goneril pledges her loyalty to Edmund and directs him to return to Cornwall to “[h]asten his musters and conduct his powers. . .” While Edmund performs this task, in a letter Goneril urges Edmund to free her from Albany (her husband) and if he does, promises to “make [Edmund] King of England.”

Producing this letter, Albany accuses Edmund of “capital treason,” identifies Goneril as his accessory, and arrests them both. Their pre-trial detention prevents these charges from being

resolved in an immediate trial by battle (the method Albany and Edmund prefer) and also shields Goneril from her suicidal urge. When governmental order is restored, King Lear proclaims that the laws in effect as of 2023 in any union of England's future North American colonies will apply to all matters concerning him and his family. The Attorney General then investigates and eventually prosecutes Edmund and Goneril not only for treason, but also for misprision of treason, insurrection, seditious conspiracy and advocating the violent overthrow of the government, respectively crimes punishable under 18 U.S.C. §§ 2381, 2382, 2383, 2384 and 2385.

The King's Bench tries Edmund and Goneril jointly, with a partial record of its proceedings appearing in *King Lear* (Bart O. Avon, court reporter). Goneril's counsel argues that Lear's territorial grant ended his reign even though he remained alive. He explains that under medieval principles, monarchs have two bodies: one corporeal, another mystical - an eternal power representing the whole state; upon Lear's ceding territory to Goneril and Regan, this mystical body (and the associated authority to govern) passed to them. Goneril's counsel also contends that her acts allegedly violating criminal statutes are constitutionally protected speech.

The trial court rejects these arguments. The court explains that while a king's repeated and serious moral failures or his complete loss of his mental capacity might trigger separation of the kingship from a king's living person, the mere transfer of the king's property - even all of it - would not end his reign (citing William Shakespeare, *Richard II*, act 3, sc. 2 ("The breath of worldly men cannot depose The deputy elected by the Lord")). This principle has particular force here, the court said, because Lear declared his intent to retain his mystical royal power. Rejecting Goneril's argument about protected speech, the court characterizes the conduct for which Goneril is prosecuted as not involving speech; to any extent her conduct had some expressive characteristics, the government had sufficiently important interests in regulating its non-speech elements, and constitutional protection for the expressive elements evaporated when the conduct turned violent.

At trial, multiple witnesses testify that Edmund assembled armed men to resist the Cordelia-led forces seeking to maintain Lear's authority. Edmund himself does not testify, but the court admits into evidence another witness's testimony that shortly after his arrest, Edmund said, "What you have charged me with, that have I done." Also, conflicting evidence is presented on whether Edmund has had sexual relationships with both Goneril and Regan. One witness offers un rebutted testimony that shortly before her arrest, Goneril stated that she would "rather lose the battle [with Cordelia's forces] than [endure Regan's] . . . loosen[ing] [Edmund] and me."

In part relying on Edmund's admission, the lower court convicts him of treason; his appeal is unsuccessful; and he is executed. The court acquits Goneril of treason but convicts her on the other charges and sentences her to twenty years of imprisonment and disqualification from any future public office.

On Goneril's appeal in the Supreme Court, the questions presented are:

1. Whether Lear's territorial grant had the legal effect of ending his reign, thus rendering Goneril and Regan (together with their respective husbands) sovereign over their assigned territories, so that their actions against Lear were not crimes, but steps taken to defend their proper governmental authority.

2. Alternatively, if Lear's rule continued despite his territorial grant, whether Goneril's free speech rights under the First Amendment shield her from prosecution for her statements and activity in resisting his authority.