

**FILED**

**December 23, 2004**

Starcher, J., concurring:

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SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

I concur in the majority opinion's holding and reasoning.

I write separately to note that the literal sweep of *W.Va. Code*, 61-7-7(b) [2000] seems to be far broader than common sense would suggest to be appropriate. I question whether the members of the Legislature who voted for this statute intended that it would bar a man who had relations with a girl when he was 19 and she was 15 – and who had otherwise led a law-abiding life – from *ever* going squirrel hunting with a firearm for the rest of his life.

Nevertheless, that is the plain meaning of the statute, and in the posture of the current case, we must uphold that meaning.<sup>1</sup> Accordingly, I concur.

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<sup>1</sup>I note that we are not presented with either an equal protection or substantive due process challenge to the application of the statute. As this Court noted in *Haislop v. Edgel*, 215 W.Va. 88, \_\_\_, 593 S.E.2d 839, 850 [2003] (upholding sex offender registration statute):

Additionally, we are not unmindful that the concurring opinion of Justices Souter and Ginsburg in *Connecticut Department of Public Safety* noted that they “agree with the observation that today's holding does not foreclose a claim that Connecticut's dissemination of registry information is actionable on a substantive due process principle[.]” *Id.* 538 U.S. at 8, 123 S.Ct. at 1165, 155 L.Ed.2d at 106, and that “the Court's rejection of respondents' procedural due process claim does not immunize publication schemes like Connecticut's from an equal protection challenge.” *Id.* 538 U.S. at 10, 123 S.Ct. at 1166, 155 L.Ed.2d at 107.