

convicted in violation of his constitutional right to equal protection of the law. Specifically, [REDACTED] believes that 18 U.S.C. § 2257 exempts from prosecution under the federal child pornography law, 18 U.S.C. § 2252, "producers" of child pornography, but allows for persons such as himself to be prosecuted who do not fall into the category of "producers." Thus, according to [REDACTED] argument, [REDACTED] can be prosecuted for viewing material that the producers cannot be prosecuted for making. This alleged immunity allows producers to place assurances upon their sexually explicit materials that no minors were involved in the production of the materials even if those assurances are not true. The risk of error, according to [REDACTED] falls on him and other consumers. Furthermore, [REDACTED] argues that a producer, such as Filmfare who produced the Blue Vanities series of tapes, is immune from prosecution because of 18 U.S.C. § 2257 but he is prosecuted for viewing the Filmfare material. This, he claims, violates his equal protection rights.

18 U.S.C. § 2257 states, in relevant part:

(a) Whoever produces any book, magazine, periodical, film, videotape, or other matter which-- (1) contains one or more visual depictions made after November 1, 1990 of actual sexually explicit conduct; and (2) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce; shall create and maintain individually identifiable records pertaining to every performer portrayed in such a visual depiction.

18 U.S.C. § 2257(d)(1) provides that "No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in this section, directly or indirectly, be used as evidence against any person with respect to any violation of law." Thus, the Government cannot use the records that producers under § 2257 must keep to

Id. Generally speaking, the first step in analyzing whether an Ordinance or law violates equal protection is to determine the standard of review. [REDACTED]

[REDACTED] However, in this case, the Court is not required to determine even the standard of review because [REDACTED] has failed to state a cognizable equal protection claim. The plain language of 18 U.S.C. § 2257 applies to producers, and [REDACTED] has failed to demonstrate that he is similarly situated with, for instance, Filmfare, the producers of the Blue Vanities series of videotapes. Furthermore, contrary to [REDACTED] argument, nothing prevents the Government from prosecuting Filmfare under 18 U.S.C. § 2252. The only thing that the Government may not do under 18 U.S.C. § 2257 is use the records which producers are required to keep pursuant to § 2257(a) in a prosecution under § 2252. If [REDACTED] were a producer and kept the requisite records according to the provisions of § 2257(a), the Government could not use those records against him in a prosecution under § 2252. But if [REDACTED] were a producer and was in the business of producing videotapes, or possessed videotapes, in violation of § 2252, the Government could prosecute him relying on much the same evidence that it relied on during his trial in 199 [REDACTED]. Therefore, [REDACTED] argument that the Government's prosecution of him under § 2252 violated his equal protection rights is without merit.