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Cyberlaw

Module 3 assignment

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In the case of *Van Buren v. United States*, the central figure, Nathan Van Buren, formerly a sergeant with the Cumming, Georgia, Police Department, became embroiled in a convoluted situation involving a man named Andrew Albo. Albo had a history of allegedly paying young prostitutes and then accusing them of theft. Van Buren, facing financial difficulties, sought a loan from Albo under false pretenses, claiming that he needed over \$15,000 to settle his son's medical bills. Unbeknownst to Van Buren, Albo recorded their conversation, during which Van Buren requested the loan.

Albo then presented this recording to law enforcement, alleging that Van Buren was effectively extorting money from him. As a result, the FBI initiated a sting operation to test Van Buren's willingness to engage in illicit activities for financial gain. In this undercover operation, Albo asked Van Buren to access a government database to determine if a particular woman was an undercover officer before he would provide Van Buren with the requested loan. Van Buren complied by searching for information about the woman in a government database maintained by the Georgia Bureau of Investigation (GBI) and the FBI.

The following day, Van Buren was confronted by FBI and GBI agents, during which he admitted to fabricating the story about his son's medical expenses to secure the loan from Albo.

Additionally, he acknowledged using the government database for the specific purpose of checking if the woman Albo mentioned was an undercover officer.

Following these events, a federal grand jury charged Van Buren with two counts: one of honest-services wire fraud and another of felony computer fraud, both stemming from his actions during this operation. A jury convicted him on both counts, leading to Van Buren's appeal of his convictions. The U.S. Court of Appeals for the Sixth Circuit determined that the jury instructions regarding the honest-services count were fatally flawed and ordered a new trial on that charge.

However, they found no deficiencies in Van Buren's conviction for computer fraud, citing Eleventh Circuit precedent that suggested a person with authorization to access a computer could be found guilty of computer fraud if they subsequently misused that access.

The fundamental question before the Supreme Court in this case was whether a person who is authorized to access information on a computer for specific purposes can be found in violation of Section 1030(a)(2) of the Computer Fraud and Abuse Act (CFAA) if they access that information for an improper, unauthorized purpose.

In a decisive 6-3 decision, the Supreme Court, with Justice Amy Coney Barrett authoring the majority opinion, ruled that an individual "exceeds authorized access" under Section 1030(a)(2) of the CFAA when they access a computer with authorization but then proceed to obtain

information located in particular areas of the computer that are off-limits to them. The Court clarified that the focus should be on location-based access restrictions rather than the individual's motives for accessing the information. This interpretation of the CFAA's "exceeds authorized access" provision overturned Van Buren's conviction, as he had authorization to access the information in question, even though he used it for an improper purpose. Justice Clarence Thomas authored a dissenting opinion, joined by Chief Justice John Roberts and Justice Samuel Alito, arguing that the government's proposed interpretation of the provision, which considered the manner or circumstances of access, was more consistent with the text, property law principles, and statutory history. However, the majority's interpretation prevailed, resulting in a significant clarification of the scope of the CFAA and its implications for computer-related criminal cases.

Sources:

<https://epic.org/documents/van-buren-v-united-states/>

<https://epic.org/documents/van-buren-v-united-states/>

<https://www.oyez.org/cases/2020/19-783>