

11-37-6 (Third degree sexual assault); (5) G.L. 1956 § 11-37-8.1 (First degree child molestation sexual assault); and (6) G.L. 1956 § 11-37-8.3 (Second degree child molestation sexual assault).³

With respect to each of these statutes, the prohibited conduct is set forth in one section of the chapter, and the penalty is set forth in the subsequent one. *See, e.g.*, § 11-37-8.1 (“A person is guilty of first degree child molestation sexual assault if he or she engages in sexual penetration with a person fourteen (14) years of age or under.”); § 11-37-8.2 (“Every person who shall commit first degree child molestation sexual assault shall be imprisoned for a period of not less than twenty-five (25) years and may be imprisoned for life.”).

In the PCR applications, petitioners relied on jurisprudence both from this Court and others, including *State v. Maxie*, 187 A.3d 330 (R.I. 2018) and *State v. Footman*, 196 A.3d 758 (R.I. 2018). We deem the cases relied on by petitioners to be distinguishable. In *Maxie*, and then in *Footman*, this Court concluded that G.L. 1956 § 11-67-6, which was entitled “Sex trafficking of a minor” and has since been repealed, was flawed in that it failed to state a crime.⁴ *Footman*, 196 A.3d at 763; *Maxie*, 187 A.3d at 341. This Court concluded that § 11-67-6 was “afflicted with an

³ Each petitioner, except for one, was convicted under one or more of these statutes. The exception is Leo Morris, Jr. (No. 2019-283-M.P.), who was convicted of assault with intent to commit first degree sexual assault, which does contain a penalty provision. *See* G.L. 1956 § 11-5-1 (“Every person who shall make an assault with intent to commit murder, robbery, sexual assault, burglary, or the abominable and detestable crime against nature, shall be imprisoned not exceeding twenty (20) years nor less than one year.”) Nonetheless, Morris contends that the alleged unconstitutional nature of the first-degree sexual assault statute, § 11-37-2, impacts the validity of his conviction.

⁴ In pertinent part, § 11-67-6 read:

(b) Any person who: (1) Recruits, employs, entices, solicits, isolates, harbors, transports, provides, persuades, obtains, or maintains, or so attempts, any minor for the purposes of commercial sex acts; or (2) Sells or purchases a minor for the purposes of commercial sex acts; or (3) Benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in subdivision (1) or (2); *or* (c) Every person who shall commit sex trafficking of a minor, shall be guilty of a felony and subject to not more than forty (40) years imprisonment or a fine of up to forty thousand dollars (\$40,000), or both. (Emphasis added.)

obvious drafting error[.]” which was referred to by the parties as the “hanging or,” and that “no amount of statutory construction * * * [could] fill the gap or repair the flaw created by the absence of language setting forth a crime[.]” *Maxie*, 187 A.3d at 340, 341.

That is not the situation presented in the statutes at issue. The subject statutes do not contain any such drafting errors. Rather, each is part of a clear statutory scheme in which the prohibited conduct is plainly laid out in one section of a chapter in our general laws, and the penalty is set forth in the subsequent section. We reject petitioners’ arguments that this arrangement somehow renders the statutes without legal force and effect. None of the other cases cited by petitioners, which are largely from other jurisdictions, convince us otherwise. For the reasons specified herein, and for the reasons set forth in the Superior Court’s well-reasoned denials of the PCR applications, we deny all of the petitions for writ of certiorari.

The petitions for writ of certiorari listed in Exhibit A, as prayed, are denied.

The petitioners’ motions for appointment of counsel, as prayed, are denied as moot.⁵

The petitioners’ motions to proceed *in forma pauperis*, as prayed, are granted.

These matters shall be closed.

Entered as an Order of this Court this *19th* day of *November 2019*.

By Order,

/s/
Clerk

⁵ All but one petitioner, Christian Buchanan (No. 2019-327-M.P.), filed a motion to proceed *in forma pauperis* and a motion to have counsel appointed.

Exhibit A

1	SU-2019-250-MP	Joseph Wilson v. State of Rhode Island
2	SU-2019-251-MP	Lance Mosley v. State of Rhode Island
3	SU-2019-252-MP	Freedom Thibodeau v. State of Rhode Island
4	SU-2019-253-MP	Clinton Mulbah v. State of Rhode Island
5	SU-2019-254-MP	Muhammad Farooq v. State of Rhode Island
6	SU-2019-255-MP	John Depina v. State of Rhode Island
7	SU-2019-256-MP	Santo Jensen v. State of Rhode Island
8	SU-2019-257-MP	Peter Cole v. State of Rhode Island
9	SU-2019-258-MP	Walter Perry v. State of Rhode Island
10	SU-2019-259-MP	Aloysius Weah v. State of Rhode Island
11	SU-2019-260-MP	Carlos Guzman v. State of Rhode Island
12	SU-2019-261-MP	Dante Dutra v. State of Rhode Island
13	SU-2019-262-MP	James Paola v. State of Rhode Island
14	SU-2019-263-MP	Stephen Mattatall v. State of Rhode Island
15	SU-2019-265-MP	Oscar Muralles v. State of Rhode Island
16	SU-2019-266-MP	Juan Silva v. State of Rhode Island
17	SU-2019-267-MP	Bruce McKay v. State of Rhode Island
18	SU-2019-269-MP	Michael Powell v. State of Rhode Island
19	SU-2019-270-MP	Anibal Acevedo v. State of Rhode Island
20	SU-2019-271-MP	Gary Abruzzese v. State of Rhode Island
21	SU-2019-277-MP	Anthony Deciantis v. State of Rhode Island
22	SU-2019-278-MP	Fredwin Burgos v. State of Rhode Island
23	SU-2019-279-MP	Samuel Fuentes v. State of Rhode Island
24	SU-2019-280-MP	Kirk Demers v. State of Rhode Island
25	SU-2019-282-MP	Javier Merida v. State of Rhode Island
26	SU-2019-283-MP	Leo Morris, Jr. v. State of Rhode Island
27	SU-2019-284-MP	Amilio Feliciano v. State of Rhode Island
28	SU-2019-285-MP	James Hernandez v. State of Rhode Island

29	SU-2019-289-MP	Edilsar Alvarado v. State of Rhode Island
30	SU-2019-290-MP	Jaimeson Rushlow v. State of Rhode Island
31	SU-2019-291-MP	Edward Berrios v. State of Rhode Island
32	SU-2019-292-MP	Jeffrey Murray v. State of Rhode Island
33	SU-2019-295-MP	Jayson Esposito v. State of Rhode Island
34	SU-2019-310-MP	David Carpenter v. State of Rhode Island
35	SU-2019-311-MP	Marco Ortiz, Sr. v. State of Rhode Island
36	SU-2019-312-MP	Robert Gonder v. State of Rhode Island
37	SU-2019-327-MP	Christian Buchanan v. State of Rhode Island
38	SU-2019-377-MP	Nicholas Caterino v. State of Rhode Island
39	SU-2019-378-MP	Demetrio Aguilar v. State of Rhode Island
40	SU-2019-382-MP	Raymond Lynch v. State of Rhode Island
41	SU-2019-383-MP	Miguel Panadero v. State of Rhode Island

SUPREME COURT – CLERK’S OFFICE

ORDER COVER SHEET

Title of Case	In re Petitions for Writ of Certiorari Seeking Review of Denials of Applications for Postconviction Relief.		
Case Number	SU-2019-250-MP SU-2019-251-MP SU-2019-252-MP SU-2019-253-MP SU-2019-254-MP SU-2019-255-MP SU-2019-256-MP SU-2019-257-MP SU-2019-258-MP SU-2019-259-MP SU-2019-260-MP SU-2019-261-MP SU-2019-262-MP SU-2019-263-MP	SU-2019-265-MP SU-2019-266-MP SU-2019-267-MP SU-2019-269-MP SU-2019-270-MP SU-2019-271-MP SU-2019-277-MP SU-2019-278-MP SU-2019-279-MP SU-2019-280-MP SU-2019-282-MP SU-2019-283-MP SU-2019-284-MP SU-2019-285-MP	SU-2019-289-MP SU-2019-290-MP SU-2019-291-MP SU-2019-292-MP SU-2019-295-MP SU-2019-310-MP SU-2019-311-MP SU-2019-312-MP SU-2019-327-MP SU-2019-377-MP SU-2019-378-MP SU-2019-382-MP SU-2019-383-MP
Date Order Filed	November 19, 2019		
Justices	Suttell, C.J., Goldberg, Flaherty, Robinson, and Indeglia, JJ.		
Source of Appeal	Providence County Superior Court		
Judicial Officer From Lower Court	Associate Justice Kristin E. Rodgers		
Attorney(s) on Appeal	For Petitioners: Glen S. Sparr, Esq. Michael S. Pezzullo, Esq. Kenneth G. Littman, Esq.		
	For State: Christopher R. Bush Assistant Attorney General Judy Davis Special Assistant Attorney General		