

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,  
PENNSYLVANIA - CRIMINAL DIVISION

COMMW. OF PENNSYLVANIA,

v.

DANIEL LOVE,

Defendant.

} CP-02-CR-4622-2025  
} R 854716-5  
}  
} HON. E. HOWSIE  
} NJT: 11/13/2025

**OMNIBUS PRETRIAL MOTION**

Filed on the Behalf of:  
Daniel Love

Attorney of Record:  
Andrew M. Sherman, Esquire  
Assistant Public Defender  
PA Bar ID: 328523

Allegheny County Office of  
the Public Defender  
542 Forbes Avenue  
Pittsburgh, Pennsylvania 15219  
(412) 350-2400

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,  
PENNSYLVANIA - CRIMINAL DIVISION

|                         |   |                    |
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| COMMW. OF PENNSYLVANIA, | } | CP-02-CR-4622-2025 |
|                         | } | R 854716-5         |
| v.                      | } |                    |
|                         | } | HON. E. HOWSIE     |
| DANIEL LOVE,            | } | NJT: 11/13/2025    |
| Defendant.              |   |                    |

**OMNIBUS PRETRIAL MOTION**

AND NOW, comes the Defendant, Daniel Love, by his counsel, Andrew M. Sherman, Esq., who presents the within Motion to Dismiss on Constitutional Grounds, and in support thereof, avers the following:

**Procedural/Factual History**

1. Mr. Love was charged by criminal information filed on July 18, 2025, with: one count of Dissemination of photographs, videotapes, computer depictions and films (F3), 18 Pa.C.S. § 6312(c); and one count of Child sexual abuse material (F3), 18 Pa.C.S. § 6312(d).
2. This matter is scheduled for a non-jury trial on November 13, 2025, before the Honorable Eliot Howsie.

**Motion to Dismiss on Constitutional Grounds**

3. The overbreadth doctrine is a narrow exception to the rule that a litigant may not challenge a statute on the basis that it would outlaw someone else's constitutionally-protected behavior. *Broadrick v. Oklahoma*, 413 U.S. 601, 610–11 (1973).

4. Because “the First Amendment needs breathing space,” the overbreadth doctrine allows litigants whose own speech is not protected to mount a facial challenge to a statute on the basis that it would chill the protected speech of others. *Id.* at 611–12.
5. In order for a statute to be found overbroad, it must on its face prohibit a “substantial amount of protected expression.” *Ashcroft v. Free Speech Coalition*, 535 U.S. 234, 244 (2002).
6. Pennsylvania’s sexual abuse of children statute was amended, effective in January 2025, to prohibit the production or possession of “Artificially generated child sexual abuse material.” Act of October 29, 2024, PL 1095, No. 125, § 3. The AI provision bans:

A[ny] book, magazine, pamphlet, slide, photograph, videotape, film, computer depiction or other material:

- (1) that appears to authentically depict a child under 18 years of age engaging in a prohibited sexual act or in the simulation of such act that did not occur in reality; and
- (2) the production of which was substantially dependent upon technical means, including artificial intelligence or photo editing software, rather than the ability of another person to physically impersonate the child.

18 Pa.C.S. § 6312(g) (Definitions).

7. A “prohibited sexual act” includes:

Sexual intercourse as defined in section 3101 (“In addition to its ordinary meaning, includes intercourse per os or per anus, with some penetration however slight; emission is not required”), masturbation, sadism, masochism, bestiality, fellatio, cunnilingus, lewd exhibition of the genitals or nudity if such nudity is

depicted for the purpose of sexual stimulation or gratification of any person who might view such depiction.

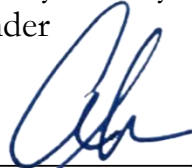
*Id.* (definition of sexual intercourse inserted from 18 Pa.C.S. § 3101).

8. The AI provision of Pennsylvania's child sexual abuse law criminalizes a significant amount of speech with serious literary, artistic, political, or scientific value, is thus overbroad and must be struck down and the case against Mr. Love dismissed. *See Miller v. California*, 413 U.S. 15 (1973); *New York v. Ferber*, 458 U.S. 747 (1982); and *Ashcroft v. Free Speech Coalition*, 535 U.S. 234 (2002).
9. Mr. Love requests the opportunity to brief the matter.

WHEREFORE, Mr. Love respectfully requests that this Honorable Court grant his Motion to Dismiss on Constitutional Grounds.

Respectfully Submitted:

Allegheny County Office of the Public  
Defender



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Andrew M. Sherman, Esq.

Assistant Public Defender

PA ID No. 328523

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**PRELIMINARY ORDER OF COURT**

AND NOW, to-wit, this \_\_\_\_\_ day of \_\_\_\_\_, 2025, it is hereby  
ORDERED that a hearing shall be held on the \_\_\_\_\_ day of \_\_\_\_\_,  
2025, in Courtroom No. \_\_\_\_\_, at \_\_\_\_\_ A.M./P.M on the Defendant's Omnibus  
Pretrial Motion.

BY THE COURT:

\_\_\_\_\_, J

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NJT: 11/13/2025

**ORDER OF COURT**

AND NOW, to-wit, this \_\_\_\_\_ day of \_\_\_\_\_, 2025, after due consideration of Defendant's Motion to Dismiss on Constitutional Grounds, the motion is hereby GRANTED.

BY THE COURT:

\_\_\_\_\_, J.

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**CERTIFICATE OF SERVICE**

I, Andrew M. Sherman, Esquire, of the Allegheny County Public Defender's Office, certify that a true and correct copy of this pleading has been served upon the following by **hand or electronic delivery** on the 6th day of November 2025:

The Honorable Eliot Howsie (via PACFile & E-mail)  
Allegheny County Courthouse  
436 Grant Street  
Pittsburgh, PA, 15219

Allegheny County District Attorney's Office (via PACFile & E-mail)  
Allegheny County Courthouse  
436 Grant Street  
Pittsburgh, PA, 15219

Allegheny County Criminal Court Administrator (via PACFile)  
436 Grant Street, Room 535  
Pittsburgh, PA 15219



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Andrew M. Sherman, Esq.

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NJT: 11/13/2025

**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.



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Andrew M. Sherman, Esq.  
Assistant Public Defender