

**Sex Offender Registration Law Update #3
March 6, 2008**

1. N.V. v. State, 2008 Ark. App. LEXIS 207 (March 5, 2008)

- **Hearing Required for Juvenile Registrant**

Per Arkansas' statutory scheme (in addition to the guarantees made by the judge), a juvenile adjudicated delinquent of a sex offense was entitled to a due process hearing prior to being required to register as a sex offender.

2. Thomas v. U.S., 2008 D.C. App. LEXIS 87 (D.C. Ct. App. Feb. 28, 2008)

- **Right to Jury Trial**

D was convicted of misdemeanor child sexual abuse, each offense having a maximum incarceration of 180 days. Even though he was subject to registration as a sex offender based on his conviction, he was not entitled to a trial by jury as the offense was "petty" for purposes of the Sixth Amendment and the registration requirements were not penal in nature.

3. People v. Haddock, 2008 N.Y. App. Div. LEXIS 1632 (Sup. Ct. Feb. 28, 2008)

- **"Knowingly" Fail To Register**

Even though New York's failure to register statute (Correction Law §168-t) does not specify a specific *mens rea* requirement, the failure to include a "knowledge" element on the jury instructions was reversible error.

4. Hall v. Attorney General, 2008 U.S. App. LEXIS 3595 (5th Cir. Feb. 20, 2008)

- **Ex Post Facto**

Retroactive application of laws requiring sex offender registration and notification do not violate the Ex Post Facto clause.

5. Commonwealth v. Rosado, 2008 Mass. LEXIS 34 (Sup. Jud. Ct. Feb. 14, 2008)

- **Homeless Sex Offender: Failure to Register**

Where D was homeless, but registered as required by Massachusetts law. On one occasion, he listed his shelter address (where he periodically stayed and where beds are distributed on a lottery system), and was later prosecuted for providing false information and failing to update. D's convictions were reversed because there was insufficient proof of a "knowing" violation of the sex offender registry statutes.

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Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) Office
U.S. Department of Justice/Office of Justice Programs

In addition, the form used by Massachusetts to register its offenders was criticized for not comporting with the most recent legislation regarding homeless offenders, as it failed to provide a homeless registrant with the opportunity to show their homeless status.

SORNA Note: SORNA specifically addresses the issue of registering homeless sex offenders. See 42 U.S.C. §16911(13) and the Proposed Guidelines at p. 30.

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