

**Sex Offender Registration Law Update #8
May 15, 2008**

1. Longoria v. State, 2008 Minn. App. LEXIS 260 (May 13, 2008)

- **Continuing Offense**

The court held that failure to register is a continuing offense and, as such, D could be prosecuted. “The offense is a continuing one until such time as a defendant properly registers, as required by the statute.”

2. Duran v. Maryland, 2008 Md. App. LEXIS 58 (May 9, 2008)

- **Elements vs. Facts**

Because D was not convicted of an offense requiring registration, and the Maryland offense of Indecent Exposure did not “by its nature [involve] a sexual offense against a person under the age of 18 years”, he could not be ordered to register.

3. Evans v. State, Cuyahoga County Case # CV-08 646797 (May 9, 2008)

- **Ex Post Facto**

One of the myriad challenges to Ohio’s new sex offender registration law now pending. D was convicted in 2003 and his registration requirements were enhanced by Ohio’s passage of new sex offender legislation last year. The court found that retroactive application of those provisions violated the Ohio Constitution, the Federal Ex Post Facto clause, finding that the statute was not remedial in nature.

4. State v. Holloman-Cross, 2008 Ohio App. LEXIS 1868 (May 8, 2008)

- **Ex Post Facto**

Another challenge out of Ohio, this time finding no ex post facto violation.

5. Slagle v. State, 884 N.E.2d 109 (Ohio C.P. 2008)

- **Ex Post Facto**

Case from February that I missed the first time around; again, a challenge to Ohio’s new statutory scheme. The court rejected D’s arguments regarding Separation of Powers, Retroactivity/Ex Post Facto, Double Jeopardy, and Breach of Contract/Plea Agreement.

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6. Cameron v. U.S., 2008 U.S. Dist. LEXIS 36587 (E.D. Va. May 5, 2008)

- **Ordering Registration for Non-Sex Offense**

Here, D was convicted of a drug offense, and was ordered to register as a sex offender as a condition of probation under 18 U.S.C. §3553(d), based on a prior sex offense out of California. The court upheld this requirement, citing U.S. v. Talbert, 501 F.3d 449 (5th Cir. 2007), U.S. v. Rosario, 386 F.3d 166 (2d Cir. 2004), and U.S. v. Dupes, 513 F.3d 338 (2d Cir. 2008). It also found that there was no Tenth Amendment violation because of the probation language which required, in essence, “sex offender registration...if applicable”, making it clear that D was simply required to comply with whatever state-imposed registration obligations are placed upon him.

7. In re Richard A., 2008 R.I. LEXIS 54 (May 1, 2008)

- **Juvenile Registration Constitutionality**
- **Right to a Jury Trial**

D was a juvenile adjudicated delinquent required to register as a sex offender, and he challenged the constitutionality of the sex offender registration statute. The court found that the registration requirements were constitutional as applied to juveniles. Of note, though, is their statement that it was a “significant consideration” in their decision that in Rhode Island juvenile registration information is only available to law enforcement and is not disseminated to the public. Also found that, because the registration requirement does not constitute criminal punishment, there is no right to a jury trial for a juvenile.