

Sex Offender Registration Law Update #22
February 23, 2009

1. Doe v. Keathley, 2009 Mo. App. LEXIS 4 (January 6, 2009)

- **Retroactive Application**
- **SORNA directly applicable to state-level offenders**

Doe was convicted of a sex offense in Iowa in 1994 and moved to Missouri that same year. Missouri's sex offender registration laws have been limited to offenders convicted on or after January 1, 1995, via the holding in *Doe v. Phillips*, 194 S.W.3d 833 (Mo. 2006). This court held that the Supremacy Clause, SORNA, and the retroactivity regulation of SORNA preempt *Doe's* holding, and that the SORNA requirement to register "is an obligation imposed by federal law." Doe, therefore, has to register as a sex offender in Missouri.

2. Minnesota v. Larson, 2008 Minn. App. Unpub. LEXIS 1525 (Dec. 30, 2008)

- **Double Jeopardy**
- **Refusal to Sign Notice**

Larson was incarcerated for a failure to register conviction. Prior to his release, he was approached three separate times with a sex offender registration form for his signature, and each time he refused to sign the form. He was properly convicted of two counts of failure to register as a sex offender (the state had dismissed one of the charges pre-trial). Although the duty to register is a continuing obligation, Larson could be prosecuted when he committed the same offense (of failing to register) multiple times, as he did here.

3. Gonzalez v. Duncan, 2008 U.S. App. LEXIS 26516 (9th Cir. Dec. 30, 2008)

- **25-Life sentence for failure to register**
- **8th Amendment**

Gonzalez was convicted of failure to register as a sex offender, and because of his prior felony convictions, was sentenced under California's 3-Strikes law. The ninth circuit held that the sentence was "grossly disproportionate to the offense" under the 8th Amendment and granted his Habeas petition.

4. **U.S. v. Hahn, 2008 U.S. App. LEXIS 25758 (10th Cir., Dec. 18, 2008)**

- **Non-sex offense conviction**
- **Ordered to register as sex offender**

Hahn was convicted of a violation of 18 U.S.C. §656 (misapplication of financial institution funds). He was ordered to register as a sex offender as part of his probation requirements under 18 U.S.C. §3583(d) because of a state-level sex offense conviction which occurred between his arrest and sentencing on this federal charge. The court upheld the imposition of sex offender registration requirements on Hahn. The case did not directly address SORNA.

5. **Utah v. Briggs, 2008 Utah LEXIS 194 (Dec. 12, 2008)**

- **“Target” information**
- **Requires Due Process before publication**

Utah’s sex offender registration scheme required posting of an offender’s “primary and secondary targets [on its public registration website], implying that [an offender] is currently dangerous.” The court held that such information may not be published (including the designation that he is “currently dangerous” unless an offender has notice and an opportunity to be heard at a hearing regarding its validity.

6. **Montana v. Samples, 2008 Mont. LEXIS 655 (Dec. 11, 2008)**

- **Homeless Offender**

Samples registered properly as a sex offender up until he left his residence at a homeless shelter in June of 2002, and remained homeless after that time. He did not inform registration officials that he had left the shelter. The statute requiring him to notify those officials was not void for vagueness, and his conviction was affirmed.

7. **Iowa v. Mitchell, 757 N.W.2d 431 (Iowa 2008)**

- **Child Endangerment: criminalizing cohabiting with a known sex offender**

In 2005, Iowa passed a provision prohibiting a parent from knowingly cohabiting with a person required to register as a sex offender. The provision does not prohibit cohabiting with a spouse who is a registered sex offender. Mitchell was convicted of this offense for living with her boyfriend, who had been convicted in 2000 of indecent exposure where the victim was a teenager. The Iowa Supreme Court upheld the conviction, rejecting Mitchell’s constitutional challenges (two justices dissented).

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