

Sex Offender Registration Law Update #25
May 26, 2009

1. Doe v. Department of Public Safety, 2009 Md. App. LEXIS 56 (May 12, 2009)

- **Presumption of Dangerousness**
- **Constitutional Challenge**

Doe challenged the conclusive presumption of dangerousness (and the attendant registration and notification requirements for a “sexually violent offender”) that flowed from a conviction for rape. This presumption was permissible. In addition, his privacy, due process, and equal protection challenges were rejected.

2. Wallace v. State, 2009 Ind. LEXIS 401 (April 30, 2009)

Available online at <http://www.in.gov/judiciary/opinions/pdf/04300901rdr.pdf>

- **Ex Post Facto**
- **Initial Sex Offender Registration Scheme**
- **Retroactive Application Violates State Constitution**

Relying in part on the decision in Doe v. State, 189 P.3d 999 (Alaska 2008), the Indiana Supreme Court held that the state’s sex offender registration and notification scheme was punitive under the Mendoza-Martinez factors and, as such, application of its requirements to an offender convicted and sentenced prior to the initial passage of the law was unconstitutional.

3. Jensen v. State, 2009 Ind. LEXIS 400 (April 30, 2009)

Available online at <http://www.in.gov/judiciary/opinions/pdf/04300902rdr.pdf>

- **Ex Post Facto**
- **Amended Sex Offender Registration Provisions**
- **Retroactive Application does not Violate State Constitution**

Where petitioner was convicted and sentenced in 2001, and the only changes to the sex offender registration and notification scheme since that time could fairly be characterized as ‘civil and regulatory’ under the Mendoza-Martinez factors, retroactive application of those amended provisions was not a violation of the Ex Post Facto clause.

The Department of Justice makes no claims, promises, or guarantees about the accuracy, completeness, or adequacy of the contents of this update, and expressly disclaims liability for errors and omissions in the contents of this update. The information appearing in this update is for general informational purposes only and is not intended to provide legal advice to any individual or entity. We urge you to consult with your own legal advisor before taking any action based on information appearing in this update.

4. Commonwealth v. McBride, 2009 Ky. LEXIS 52 (April 23, 2009)

- **Out-of-State Conviction**
- **Notice**

McBride was convicted of a sex offense in Tennessee and registered as a sex offender there. He subsequently moved to Kentucky, and failed to register as a sex offender as required by Kentucky law. Even though he was not specifically notified of his registration obligations in Kentucky, the Court held that failure to register was a strict liability offense, and that he had an absolute duty to register as a sex offender once he became a resident of Kentucky.