

Sex Offender Registration Law Update #5
April 3, 2008

1. **Doe v. Phillips, et. al., 2008 Mo. App. LEXIS 432 (April 1, 2008)**
 - **Publishing information about offenders not required to register**

The plaintiffs in this case successfully argued (in prior litigation) that they were not required to register under Missouri's sex offender registration scheme because they were convicted prior to the enactment of the sex offender registration laws. Here, they sought to enjoin the State Highway Patrol from publishing their photographs and other identifying information, even though they were no longer required to register. That injunction was granted, though the Highway Patrol was permitted to retain any information not obtained through the (now prohibited) sex offender registry process.

2. **McAteer v. Riley, 2008 U.S. Dist. LEXIS 26209 (M.D. Ala. March 31, 2008)**
Parker v. King, 2008 U.S. Dist. LEXIS 26226 (M.D. Ala. March 31, 2008)
 - **Residency Restrictions: Ex Post Facto**

Rejected the plaintiffs' ex post facto challenges to the imposition of residency restrictions (for both residence and employment). Noted that the plaintiffs failed to present any evidence of the specific punitive effects the law would have on them.

3. **Breeden v. State, 2008 Tex. App. LEXIS 2150 (March 26, 2008)**
 - **Homeless**

D was transient, and frequently updated his address with the authorities. After living in a motel for a brief period of time, he checked out and began sleeping in his car in the parking lot of that hotel. About a week later he checked in at a new motel and updated his registration information. By moving out of the motel room in to his vehicle, that constituted a change of address which had to be given to the registration authorities. The jury sentenced him to 55 years of incarceration.

4. **State v. T.R.D., 2008 Conn. LEXIS 191 (March 25, 2008)**
 - **Failure to Register: Strict Liability Offense**
 - **State's duty to pursue defendant**

Held that Connecticut's failure to register statute was a strict liability offense. The State was not required to prove any *mens rea*, whether general or specific, to convict the defendant. In addition, the defendant had no due process right to the State making any further attempts to contact him (so that he could come in to compliance) prior to his arrest.

5. Colson v. Sex Offender Registry Board, 2008 Mass. Super. LEXIS 90 (Feb. 19, 2008)

- **Constitutional Challenges**

D's ex post facto, due process, double jeopardy and Eighth Amendment challenges to Massachusetts' sex offender registry law was rejected.

6. Plascencia-Ayala v. Mukasey, 516 F.3d 738 (9th Cir. 2008)

- **Failure to Register: Immigration Consequences**

Found that a conviction for failure to register as a sex offender (under Nevada's state code) is not a crime involving moral turpitude within the meaning of 8 U.S.C. §1182(a)(2)(A)(i)(I). As such, the defendant was not removable.

SORNA Note: A conviction under the Federal failure to register statute, 18 U.S.C. §2250, has been made a deportable offense. 8 U.S.C. §1227(a)(2)(A)(v).