

Sex Offender Registration Law Update #24
April 3, 2009

1. People v. Blair, 2009 N.Y.S.2d 890 (CCNY Albany, Feb. 18, 2009); People v. Oberlander, 2009 N.Y. Misc. LEXIS 325 (Rockland Cty., Jan. 22, 2009)

- **Residency Restrictions**
- **Preempted by State Law**

Citing the decision in G.H. v. Township of Galloway, 951 A.2d 221 (N.J. App. 2008), held local residency restrictions invalid because they are preempted by the comprehensive and detailed State-level regulatory scheme regarding the registration of sex offenders.

2. People v. Knox, 2009 N.Y. LEXIS 16 (Ct. App. Feb. 17, 2009)

- **Kidnapping**
- **May be listed on sex offender registry**

Knox and her co-petitioners had all been convicted of non-parental kidnapping of a minor. Their due process challenge to being listed on the New York Sex Offender Registry was rejected.

3. Finnicum v. State, 2009 Ga. App. LEXIS 137 (Feb. 13, 2009)

- **Ex Post Facto**

Finnicum was convicted of a sex offense before Georgia enacted its initial sex offender registration legislation. It was not a violation of the ex post facto clause for him to be required to register.

4. U.S. v. Rose, 2009 CCA LEXIS 56 (Feb. 12, 2009)

- **Failure to Advise of Registration Requirement**
- **Ineffective Assistance of Counsel**

Because the court concluded that Rose's counsel "affirmatively misrepresented" that he would not have to register as a sex offender, and he pled guilty at least in part because of that misrepresentation, it constitutes ineffective assistance of counsel, and the findings of guilt were set aside.

5. Burchette v. Sex Offender Screening and Risk Assessment Cmte., 2008 Ark. LEXIS 551 (Oct. 23, 2008)

- **risk assessment determination**
- **no hearing required**

Arkansas' sex offender registry scheme calls for a risk assessment to determine what level of community notification is required for an offender. Burchette wanted to have a hearing (where he could testify, in person) before that determination was made. The court concluded that because Burchette was interviewed as part of the assessment process, and could submit a written statement to the appellate committee, there was no due process violation.