

**Sex Offender Registration Law Update #27**  
**July 7, 2009**

**1. Doe v. Keathley, 2009 Mo. LEXIS 131 (June 16, 2009)**

- **SORNA directly applicable to state offenders**
- **Retroactivity**

Petitioners were all convicted of sex offenses prior to any sex offender registration requirement for said convictions. The court held that 42 U.S.C. §16913(d) applies *directly* to these state-convicted petitioners (and at least one military-convicted offender) and *directly imposes a registration requirement on them*. Because of this direct application of federal law, the court held that there are no State Constitutional concerns, and that the petitioners were required to register. A previous decision from the Missouri Supreme Court, Doe v. Phillips, 194 S.W.3d 833 (Mo. 2006), had prohibited registration for anyone convicted for conduct prior to the enactment of Missouri's sex offender registration scheme based on Missouri's Constitution.

**2. Doe v. Massachusetts, 2009 Mass. App. LEXIS 724 (June 5, 2009)**

- **Risk Assessment**
- **Due Process**

Doe was convicted of two sex offenses in 1984 and was incarcerated for a year. In 2005 he was classified as a level two sex offender based exclusively on those two convictions. The court held that he was entitled to a hearing as to his level of current dangerousness, so as to determine if he should be required to register as a sex offender.

**3. State v. Germane, 2009 R.I. LEXIS 68 (June 2, 2009)**

- **Constitutional Challenges**
- **Extensive Opinion**

In rejecting Germane's challenges (due process, separation of powers, and ex post facto) to the registration and notification law, the Rhode Island Supreme Court engaged in a lengthy and helpful discussion of the legal issues at hand, including how the state utilizes the STATIC-99.

4. **State v. Durrett, 2009 Wash. App. LEXIS 1285 (June 1, 2009)**

- **Double Jeopardy**

Durrett was a homeless sex offender who was required to report weekly to the sheriff's office for registration purposes. There were two separate weeks where he failed to register. He could only be prosecuted for one count of failure to register, as they constituted only one unit of prosecution.

5. **White v. Dexter, 2009 U.S. Dist. LEXIS 46360 (May 20, 2009)**

- **Three-Strikes Sentence**
- **8<sup>th</sup> Amendment**

Making some factual distinction between this petitioner in this case and the one in Gonzalez v. Duncan, 551 F.3d 875 (9<sup>th</sup> Cir. 2008) (holding an imposition of a "third-strike" sentence as cruel and unusual punishment for a failure to register conviction), the court denied White's Habeas petition.

6. **People v. Ranscht, 173 Cal. App. 4<sup>th</sup> 1369 (May 15, 2009)**

- **Mandatory vs. Discretionary Registration**

Ranscht was convicted of one count of sexually penetrating a minor. Because he was similarly situated to an offender convicted of unlawful sexual intercourse—the only distinguishing factor between the offenses being the nature of the intent which must be proven—it was a denial of equal protection to require him to register as a sex offender. An 'unlawful sexual intercourse' conviction in California makes the requirement to register discretionary, rather than mandatory.

7. **State v. Pavan, 765 N.W.2d 192 (Neb. 2009)**

- ***Apprendi***
- **Notification: Punitive**

Nebraska has a procedure by which a person can be deemed to have committed an "aggravated offense", which requires lifetime registration. That determination is one that is made by the trial court judge. The court held that the Court's determination is sufficient for making a determination regarding registration, as that is civil in nature. However, relying on the *Apprendi* case (Apprendi v. N.J., 530 U.S. 466 (2000)), the court held that the determination regarding community notification was punitive in nature and required a jury determination that an offender, in fact, committed an "aggravated offense."