

**Sex Offender Registration Law Update #11 & 12
July 21, 2008**

1. G.H. v. Township of Galloway, #A-3235-06T1 (Sup. Ct. N.J., July 15, 2008)

- **Residency Restrictions**
- **Opinion link:** <http://www.judiciary.state.nj.us/opinions/a3235-a4036-06.pdf>

Two municipal residency restrictions ordinances were invalidated because they were preempted by state law. The court did not reach any constitutional arguments.

2. State v. Peterson, 2008 Wash. App. LEXIS 1623 (July 7, 2008)

- **Failure to Register: Charging**

Where the defendant was charged with failure to register, there was no burden on the State to prove his whereabouts during that period. Washington law provides for registration requirements based on whether a defendant is homeless, moves to a new fixed address, or moves to a new county.

3. Ohio Cases

a. State v. Desbiens, 2008 Ohio App. LEXIS 2887 (July 3, 2008)

Defendant's challenge to his re-designation under Ohio's new sex offender registry scheme was rejected.

b. In re Smith, 2008 Ohio App. LEXIS 2755 (June 30, 2008)

Petitioner, a juvenile classified as a Tier III sex offender, had his constitutional challenges to Ohio's sex offender registration laws rejected.

c. Doe v. Dann, 2008 U.S. Dist. LEXIS 45228 (N.D. Ohio June 9, 2008)

Plaintiffs' class action request for a preliminary injunction to prevent application of Ohio's new sex offender registry scheme was rejected by the court because they did not demonstrate that they "have been deprived of a constitutionally protected property or liberty interest."

4. Doe v. Merritt, 2008 Mo. App. LEXIS 910 (July 2, 2008)

- **Removal of improperly-obtained registry information**

The plaintiff in this case was a person wrongfully required to register as a sex offender, per the decision in Doe v. Phillips, 194 S.W.3d 833 (Mo. 2006)(en banc)(retroactive application of sex

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offender registration requirements violates Missouri's constitution). He then asked to have his information, provided prior to that ruling, removed from Missouri's sex offender registries. The court required such a removal.

5. **U.S. v. Byun, 2008 U.S. App. LEXIS 13846 (9th Cir. July 1, 2008)**

- **Inclusion of unlisted federal offense for SORNA registration**

Defendant was convicted of alien smuggling under title 8 of the U.S. Code, but the underlying facts of the case had to do with bringing a minor to Guam for the purposes of prostitution. Even though defendant was not convicted of a listed federal criminal offense under 42 U.S.C. §16911, the court determined that she was still required to register as a sex offender.

6. **Ridner v. State, 2008 Ind. App. LEXIS 1345 (June 30, 2008)**

- **Retroactive Application of Registry Requirements**

Defendant was convicted of an offense in 2006 which, at the time, did not require registration as a sex offender. The sex offender registration law was subsequently amended to require registration for that conviction, and defendant was required to register. This was not an unconstitutional *ex post facto* law as applied to him.

7. **Fountain v. State, 2008 Ark. App. LEXIS 489 (June 18, 2008)**

- **Unlisted offense requiring registration**

Where defendant was convicted of an offense not specifically listed in Arkansas' sex offender registry scheme, he was still properly required to register under its "catch-all" provision requiring registration for conviction of a "sex offense even though the offense is not enumerated."