

**Sex Offender Registration Law Update #13**  
**August 7, 2008**

**1. Milliner v. State, 2008 Ind. App. LEXIS 1612 (July 29, 2008)**

- **'Homeless' Sex Offender**

Where the defendant moved out of his marital home and stayed at various friends' homes for a period of weeks, he was still required to register his new residence address. The court found that "he made his home with others, not that he was homeless", and that he did not have to live in one place for seven days or more to trigger a requirement to register that address.

**2. U.S. v. Rhone, 2008 U.S. App. LEXIS 15942 (8<sup>th</sup> Cir. July 28, 2008)**

- **Determination of SORNA Registration Requirements**

Defendant was sentenced for a firearms conviction. As a condition of his probation under 18 U.S.C. §3583(d), he was ordered to register as required by SORNA. The court did not specify, though, the basis for that requirement. Defendant had been adjudicated delinquent of a (presumably) state-level offense of "assault with intent to commit sexual abuse". The Eighth Circuit held that, before the sentencing court could impose a registration requirement, it had to affirmatively determine that the juvenile adjudication qualified for registration under SORNA—and that the decision could not be delegated to U.S. Probation or the Bureau of Prisons.

**3. Doe v. State, 2008 Alas. LEXIS 109 (Alaska Supreme Ct., July 25, 2008)**

- ***Ex Post Facto*—State Constitutional Violation**

A significant case out of Alaska involving the same plaintiff as Smith v. Doe. Here, the Alaska Supreme Court found—under its State Constitution--that Alaska's sex offender registration requirements were *punitive*, not *regulatory*, and as such could not be applied to individuals such as Doe who committed their crimes prior to its enactment. The opinion has a thorough analysis of all the relevant considerations.

**4. State v. Cook, 2008 Kan. LEXIS 393 (July 25, 2008)**

- **Failure to Register—Continuing Offense**

Held that failure to register is analogous to the offense of escape and, as such, is properly viewed as a continuing crime. Because of this, the defendant was subject to the increased punishment which was enacted while he was in his 'failure to register' status.