

United States Court of Appeals
For the Eighth Circuit

No. 18-3275

United States of America

Plaintiff - Appellee

v.

Ricky Lynn Thomas

Defendant - Appellant

Appeal from United States District Court
for the Northern District of Iowa - Cedar Rapids

Submitted: September 23, 2019
Filed: October 31, 2019
[Unpublished]

Before SMITH, Chief Judge, WOLLMAN and BEAM, Circuit Judges.

PER CURIAM.

After moving to Iowa in March 2017, Ricky Thomas failed to register with the sex offender registry as required by the Sex Offender Registration and Notification Act, 34 U.S.C. § 20913 (SORNA), based upon his 1993 Minnesota conviction for second-degree criminal sexual conduct. Thus, in February 2018, Thomas was

indicted with one count of Failure to Register as a Sex Offender in violation of 18 U.S.C. § 2250(a). SORNA was not enacted until 2006, but in 2007, the Attorney General declared that the Act would be applied retroactively to individuals like Thomas who were convicted of offenses that require registration under SORNA but were committed prior to its enactment. Thomas moved to dismiss the federal indictment, arguing that retroactive application of § 20913(d) unconstitutionally violated the nondelegation doctrine of Article I, § 1 of the United States Constitution. The district court¹ denied the motion to dismiss, citing Eighth Circuit precedent contrary to the argument advanced. See United States v. Kuehl, 706 F.3d 917, 920 (8th Cir. 2013) (rejecting the constitutional nondelegation objection to the retroactive application of SORNA). Thomas entered a conditional guilty plea, reserving his right to advance the constitutional argument on appeal. The Supreme Court recently rejected the argument Thomas now makes, holding that Congress did not “make an impermissible delegation when it instructed the Attorney General to apply SORNA’s registration requirements to pre-Act offenders as soon as feasible.” Gundy v. United States, 139 S. Ct. 2116, 2129 (2019). Accordingly, we affirm.

¹The Honorable Linda R. Reade, United States District Court for the Northern District of Iowa.