

State v. Lyte O. Adams

ID. No. 8404000035

May 28, 2010

C. § 772 on August 31, 1984. On December 14, 1984, he was sentenced to six years imprisonment, which was suspended after serving four years, followed by two years probation. He completed his probation on August 29, 1990.

2. Delaware’s Sex Offender Registration Statute, 11 *Del. C.* § 4120 *et seq.*, has been amended numerous times since its June 27, 1994 inception.² Prior to 2008, the part pertinent to the defendant’s motion provided as follows: a sex offender is “any person who is, or has been: a. *convicted after June 27, 1994* of any of the offenses specified in §§ 765 through 780”³ Under this language, a person convicted after June 27, 1994 was required to register as a sex offender; but the defendant, whose conviction was prior to that date, was not required to register.

3. On July 16, 2008, the current version of Delaware’s Sex Offender Registration Statute became effective. This version replaced the phrase “convicted after June 27, 1994” with “who has been convicted.” The statute’s synopsis expresses a legislative intent to “require . . . sex offenders who were convicted of a sexual offense prior to the enactment of Megan’s Law to comply with the provisions under § 4120, Title 11 of the Delaware Code.”⁴ Thus, the current version of § 4121(a)(4) defines a sex offender as “any person who is, or has been: a. Convicted of any of the

² This statute is commonly referred to as “Megan’s Law.” The federal version of the statute is commonly referred to as the “Adam Walsh Act.”

³ 71 Del. Laws ch. 429 (1999) (emphasis added).

⁴ 76 Del. Laws ch. 374 (2008).

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offenses specified in §§ 765 through 780”⁵ As a result, the defendant is now included within the definition of sex offender and must register.

4. The defendant requests that the Court stay the enforcement of the current statute so he will not have to comply with the registration and tier designation requirements of § 4120(b)(1) and § 4121(d)(1). He raises five grounds to support his motion: 1) he “needs more time to acquire legal council [sic] to challenge the new changes of [the] law”; 2) “Delaware is not in compliance with Federal Law AWA, (Adam Walsh Act). Delaware has exceed all parameters as set forth by AWA and SORNA”;⁶ 3) the “State of Delaware is violating his constitutional rights by injecting new demands and a new form of punishment that was not part of his original sentence 1984”; 4) the “changes are *Ex* [sic] *post facto* in nature and are retroactive”; and 5) the defendant “believes that relief will be granted by final decision of US. [sic] Supreme Court.”

5. For the following reasons, I conclude that the defendant’s request is hereby denied: 1) the need for more time to acquire legal counsel to challenge the law does not justify staying the enforcement of the current statute; 2) Delaware’s current definition of a sex offender, i.e., “any person who is, or has been: a. Convicted of any of the offenses specified in §§ 765 through 780” is substantially similar to the definition found in the current version of the Adam Walsh Act, i.e., “an individual

⁵ 11 *Del. C.* § 4121(a)(4).

⁶ SORNA refers to the Sex Offender Registration and Notification Act.

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who was convicted of a sex offense”;⁷ 3) this Court has determined that sex offenders must comply with the registration requirements of the Delaware Code even if the offender’s sentencing order does not mention such requirements;⁸ 4) the Delaware Supreme Court has determined that retroactive application of the Sex Offender Registration Statute does not violate the *ex post facto* clause;⁹ and 5) the defendant’s belief that relief will be granted by final decision of the United States Supreme Court at a future date does not justify relief.

6. For the aforementioned reasons, the defendant’s Motion to Stay the Enforcement of Senate Bill 60, or in the Alternative, to Stay the Enforcement of House Bill No. 485, is hereby ***denied***.

/s/ James T. Vaughn, Jr.

President Judge

oc: Prothonotary
cc: Debra J. Buswell, Esq.
Mr. Lyte O. Adams
File

⁷ 42 U.S.C.A. § 16911(1).

⁸ *Wilkerson v. State*, 2006 WL 822733, at *2 (Del.).

⁹ *Smith v. State*, 919 A.2d 539, 541 (Del. 2006).