

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI,

v.

BRIAN S. GUYER,

Respondent,

Appellant.

DOCKET NUMBER WD72580

Date: December 6, 2011

Appeal from:
Buchanan County Circuit Court
The Honorable Daniel F. Kellogg, Judge

Appellate Judges:
Division One: Gary D. Witt, Presiding Judge, James E. Welsh and Alok Ahuja, Judges

Attorneys:
James A. Nadolski, St. Joseph, MO, for appellant.
Jim Farnsworth, Jefferson City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS -- WESTERN DISTRICT

STATE OF MISSOURI

v.

BRIAN S. GUYER,

Respondent,

Appellant.

WD72580

Buchanan County

Brian Guyer was convicted of sexual assault in 1998. As a result, he was required to, and did, register under Missouri's Sex Offender Registration Act ("SORA" or "Megan's law"), § § 589.400-.425, RSMo. In 2008, the General Assembly amended SORA to require sex offenders to inform law enforcement if they change employment within three days. § 589.414.1. Guyer violated this requirement in January 2009, and pled guilty to the violation on June 4, 2009. He was sentenced to three years, with the court suspending execution of the sentence and placing Guyer on probation.

Guyer filed a Motion to Set Aside Conviction on March 5, 2010, arguing that the 2008 amendment to SORA could not constitutionally be applied to him, because his status as a sex offender was based on a 1998 conviction. The circuit court denied his motion; in the same order, the court terminated Guyer's probation, more than two years early. Guyer appeals the trial court's refusal to permit him to withdraw his guilty plea.

AFFIRMED.

Division One holds:

Article I, § 13 of the Missouri Constitution provides that "no . . . law . . . retrospective in its operation . . . can be enacted." This constitutional provision does not prohibit the application of § 589.414.1 to Guyer. He was subject to the requirement to supply law enforcement with his place of employment under the version of Megan's Law in effect on the date of his conviction; under the statute in effect in 1998, Guyer would also have been required to update that information if he changed his county of residence. Thus, § 589.414.1 did not impose on Guyer a requirement to report his employment status which had not previously existed; it merely required him to *update* that information if it changed, to ensure the currency and continuing accuracy of the sex-offender registration database. Nor did § 589.414.1 impose any new restrictions on Guyer's primary conduct (namely, his conduct outside of the sex-offender registration process),

like the residency and Halloween-activity restrictions at issue in prior Missouri Supreme Court decisions.

Moreover, the updating requirement which Guyer violated was not based *solely* on his 1998 sex-offense conviction. Instead, Guyer was subject to the requirement to update his employment status because the information he had provided to authorities at the time of an earlier registration – information Guyer acknowledges he was constitutionally required to provide – was no longer accurate due to post-enactment circumstances.

Finally, the requirement to update employment information at issue in this case can also be viewed as simply a procedural mechanism for maintaining the accuracy of the information Guyer was already required to supply, by substituting a new or more appropriate remedy for the enforcement of an existing right.

Before: Division One: Gary D. Witt, Presiding Judge, James E. Welsh and Alok Ahuja, Judges

Opinion by: Alok Ahuja, Judge

December 6, 2011

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