IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

COMPLETE TITLE OF CASE

LIANA MacCOLL (formerly known as LIANA M. BRADFORD),

Appellant,

v.

MISSOURI STATE HIGHWAY PATROL and BOONE COUNTY, MISSOURI, SHERIFF,

Respondents.

DOCKET NUMBER WD84739

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DATE: May 3, 2022

APPEAL FROM

The Circuit Court of Boone County, Missouri
The Honorable Jeff Harris, Judge

JUDGES

Division Two: Mitchell, P.J., and Ardini and Chapman, JJ. CONCURRING.

ATTORNEYS

Richard B. Hicks and Roger W. Johnson, Columbia, MO, Attorneys for Appellant.

Merilee A. Crockett, Assistant Prosecuting Attorney, Columbia, MO, Attorney for Respondents.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

LIANA MacCOLL (formerly known as LIANA M. BRADFORD), Appellant,
v.
MISSOURI STATE HIGHWAY PATROL and BOONE COUNTY, MISSOURI, SHERIFF, Respondents.

WD84739 **Boone County**

Before Division Two Judges: Karen King Mitchell, Presiding Judge, and Edward R. Ardini, Jr., and Thomas N. Chapman, Judges

Liana MacColl appeals from the entry of summary judgment in favor of the Missouri State Highway Patrol and the Boone County, Missouri, Sheriff (collectively, the State) in MacColl's action seeking a declaration that she is not required to register as a sex offender in Missouri. MacColl raises four points on appeal. She argues that the court erroneously concluded she was required to register under (1) the federal Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, 42 U.S.C. § 14071 (Point I); (2) the Missouri Sex Offender Registration Act, § 589.400 *et seq.* RSMo (MO-SORA), beginning with the 2000 amendments to MO-SORA (Point II); and (3) MO-SORA's catch-all provision for individuals required to register under federal law because MacColl was subject to the federal Sex Offender Registration and Notification Act, 34 U.S.C. § 20901 *et seq.* (SORNA) (Point III). In her final point, MacColl claims the motion court erroneously concluded that she cannot apply for a retroactive reduction in the applicable registration period under SORNA. We affirm.

AFFIRMED.

Division Two holds:

1. Under Rule 84.04(c), failure to include, in the statement of facts, a fair and concise statement of the facts on which appellant's claim of error is based fails to preserve that claim for appellate review. Incorporating by reference into appellant's brief facts stated in her summary judgment motion fails to comply with Rule 84.04(c).

2. A violation of Rule 84.04(c) is grounds for dismissal of an appeal. However, to the extent we are able to understand the nature of MacColl's claims, and the State was able to understand and effectively address her claims in its responsive brief, we will exercise our discretion to review MacColl's claims *ex gratia*.

3. On appeal, we review the grant of summary judgment *de novo*, and we will affirm on any ground supported by the record where the moving party demonstrates there is no genuine

dispute about material facts and, under the undisputed facts, the moving party is entitled to judgment as a matter of law.

4. Under SORNA, a sex offender, defined as an individual who was convicted of a sex offense, must register and keep her registration current in each jurisdiction where she lives.

5. For purposes of SORNA, whether an offender was "convicted" is a matter of federal law. MacColl's guilty plea resulting in a suspended execution of sentence constituted a "conviction" for purposes of SORNA.

6. A "sex offense" under SORNA includes, among other things, (1) a criminal offense that has as an element a sexual act or contact with another and (2) a criminal offense that is a specified offense against a minor. The latter is broadly defined to include, among other things, criminal sexual conduct involving a minor and any conduct that by its nature is a sex offense against a minor.

7. Since at least 2008, SORNA has applied to all sex offenders, even those who, like MacColl, were convicted before 2006.

8. Here, MacColl does not dispute that the offense to which she pled guilty constitutes criminal sexual conduct involving a minor, which is a specified offense against a minor under SORNA. Thus, MacColl is a sex offender under SORNA and, as such, is subject to SORNA's registration requirements.

9. MacColl is considered a Tier I (the least severe category) sex offender. The registration period for a Tier I sex offender is 15 years, commencing when MacColl was sentenced for the offense giving rise to registration. In MacColl's case, the 15-year registration period ran from 1995 to 2010. Thus, at a minimum, MacColl was subject to SORNA from 2008 to 2010.

10. Missouri integrated SORNA's registration requirements into MO-SORA through § 589.400.1(7), which requires any Missouri resident who "has been or is required to register under . . . federal . . . law" to register under MO-SORA. Offenders, like MacColl, who are required to register under SORNA are subject to lifelong registration under MO-SORA because § 589.400.1(7) requires registration of any person who "has been" required to register under SORNA.

11. SORNA allows a reduction in an offender's registration period where the offender maintains a clean record for ten years by (1) not being convicted of any offense punishable by more than 1 year; (2) not being convicted of any sex offense; (3) successfully completing any assigned supervised release, probation, and parole; and (4) successfully completing an appropriate, certified sex offender treatment program.

12. SORNA's "clean record" reduction does not apply automatically but, instead, requires an analysis of whether an offender meets the criteria.

13. MacColl cites no authority allowing a retroactive reduction in the applicable registration period and, as the person seeking a declaratory judgment that her registration period should have been retroactively reduced, she bears the burden of proving she is entitled to such relief.

14. Moreover, MacColl could have applied for a reduction in her registration period under SORNA in 2008, but she did not. And, even if she had applied for a reduction back then, it would not have changed the outcome because, at that point, she was required to register under SORNA and, thus, required to register under MO-SORA as a person who "had been" required to register under SORNA.

15. The uncontroverted material facts show that MacColl is required to register under § 589.400.1(7) of MO-SORA because she "has been . . . required to register" under SORNA. Thus, under the undisputed facts, the State is entitled to judgment as a matter of law on the questions of (1) whether MacColl is subject to registration and (2) her ineligibility for a retroactive reduction in her registration period.

Opinion by: Karen King Mitchell, Presiding Judge May 3, 2022

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.