

**Summary of SC99715, *Brock Smith v. St. Louis County Police, et al.*, and SC99714, *Gary Nelson Ford v. Col. Jon Belmar, Chief of Police as Chief Law Enforcement Officer of St. Louis County, Pursuant to County Charter, and Missouri State Highway Patrol, and Jim Buckles, Sheriff of St. Louis County as “Chief Law Enforcement Official” as Defined by RSMo 589.404(3)***

Appeals from the St. Louis County circuit court, Judge Virginia W. Lay

Argued and submitted December 13, 2022; opinion issued January 31, 2023

**Attorneys:** In SC99715, Smith was represented by Nathaniel Diekman of Diekman & Leightner in Clayton, (314) 725-9850. In SC99714, Ford was represented by Stephen R. Fleddermann of Fleddermann Law Office LLC in St. Charles, (636) 947-4343. In both cases, the county police department, its chief and the county sheriff were represented by Portia J. Britt of the St. Louis County counselor’s office in Clayton, (314) 615-7038; and the highway patrol was represented by Gregory M. Goodwin and George R. Lankford of the attorney general’s office in Jefferson City, (573) 751-3321.

*This summary is not part of the opinion of the Court. It is provided by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.*

**Overview:** Two sex offenders appeal from the denial of their requests to be removed from Missouri’s sex offender registry. In 5-2 decision written by Judge Zel M. Fischer, the Supreme Court of Missouri affirms the circuit court’s judgments. Although the legislature amended the Missouri Sex Offender Registration Act (MO-SORA) in 2018, it did not change the language this Court previously had interpreted to require lifetime registration for offenders who had been required to register under the federal Sex Offender Registration and Notification Act (SORNA). Accordingly, because the two offenders had been required under SORNA, they were still required to register under MO-SORA.

Judge Patricia Breckenridge dissents. She would hold the two sex offenders were entitled to have their names removed from Missouri’s registry because, when the legislature amended MO-SORA, it amended the provision that included language regarding lifetime registration and added provisions allowing certain offenders to petition for removal from the registry after a requisite number of years. Therefore, she would find the statute no longer required all offenders who had been required to register under SORNA to register for life under MO-SORA.

**Facts:** In 2005, Brock Smith pleaded guilty to first-degree sexual misconduct. The circuit court suspended imposition of sentence and placed him on probation, which Smith successfully completed. He registered as a sex offender pursuant to MO-SORA. In 2021, Smith sought removal from the sex offender registry pursuant to section 589.401, RSMo. Smith alleged that, as a tier I sex offender, he is entitled to removal because more than 10 years had passed since he was required to register. The state argued that, pursuant to section 589.400.1(7), RSMo, Smith is required to register under MO-SORA for life because he had been required to register under SORNA. The circuit court denied Smith’s petition. Smith appeals.

In 2004, Gary Ford pleaded guilty, to three counts of second-degree child molestation. Ford's conviction renders him a tier I sex offender subject to a 15-year registration period under MO-SORA. In 2018, Ford sought removal from Missouri's sex offender registry. Ford alleged that, as a tier I offender, he was eligible for removal. The circuit court denied Ford's petition for removal, concluding section 589.400.1(7) requires lifetime registration for anyone who has ever had to register under SORNA. Ford appeals.

**AFFIRMED.**

**Court en banc holds:** Section 589.400.1(7) requires lifetime registration for offenders who have been required to register under SORNA. The 2018 amendments to MO-SORA did not alter the language in section 589.400.1(7) that this Court has interpreted to require lifetime registration. The legislature was aware of this Court's interpretation of section 589.400.1(7) at the time of the 2018 amendments and chose to leave the language regarding federal registration unchanged. Accordingly, because both Smith and Ford have been required to register under SORNA, they are required to register for life under MO-SORA.

**Dissenting opinion by Judge Breckenridge:** The author would hold that both Smith and Ford are entitled to have their names removed from Missouri's sex offender registry. While she acknowledges the legislature did not amend section 589.400.1(7), she contends this Court's previous interpretation requiring lifetime registration was not based on that provision alone. Rather, this Court held offenders who had been required to register under SORNA were required to register under MO-SORA for life by reading section 589.400.1(7) together with section 589.400.3, which included language requiring lifetime registration. The legislature removed the lifetime registration language in 2018 and included language in section 589.400.4 permitting offenders to be removed from the registry after a requisite number of years had passed, depending on their tier. Accordingly, she would find the legislature no longer intended lifetime registration for individuals who had been required to register under SORNA.