Summary of SC92380, *John Doe v. Franklin County Sheriff Gary F. Toelke, Col. Ron Replogle, Missouri State Highway Patrol*

Appeal from the Franklin County circuit court
Argued and submitted Oct. 30, 2012; opinion issued Dec. 18, 2012

Attorneys: The state was represented by Deputy Solicitor General Jeremiah J. Morgan and Mary D. Delworth, both of the attorney general's office in Jefferson City, (573) 751-3321; and Doe was represented by Matthew A. Radefeld and Tory D. Bernsen of Frank, Juengel & Radefeld PC in St. Louis, (314) 725-7777.

This summary is not part of the opinion of the Court. It has been prepared by the 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: The state appeals a circuit court's judgment that the state's sex offender registration act is unconstitutional as applied to a particular man. In a 6-0 decision written by Chief Justice Richard B. Teitelman, the Supreme Court of Missouri reverses the judgment to the extent it holds the circuit court was without authority to address the applicability of a federal registration act and that the state registration requirements violate the state constitution as applied to the man. The Court affirms the judgment, however, to the extent that it does not order the state to destroy the man's registration records. Because the man stipulates that, in the past, he "has been" required to register under federal law in the past, he is required to register under the state law. This requirement does not violate the state constitution because it is not based solely on the man's conviction, which occurred before the registration requirements were enacted, but on the independent federal requirements.

Facts: In 1983, John Doe pleaded guilty to one count of first-degree sexual assault. In 1995, the state's sex offender registration act (sections 589.400 to 589.420, RSMo) became effective, requiring Doe to register as a sex offender. In 2010, Doe filed a petition in the circuit court seeking a declaratory judgment that the state's act violates the Missouri Constitution's prohibition in article I, section 13 against retrospective operation of laws and that he was not required to register under the federal sex offenders registration and notification act. The parties tried the case on a stipulated record. The circuit court entered its judgment declaring section 589.400 unconstitutional as applied to Doe, declined to address the applicability of the federal registration act and also declined Doe's request that the state be required to destroy all his registration records. The state appeals.

AFFIRMED IN PART; REVERSED IN PART.

Court en banc holds: (1) The circuit court erred in declining to decide whether Doe was required to register pursuant to the federal act. When exercising their original jurisdiction over all civil and criminal cases and matters under article V, section 14 of the Missouri Constitution, circuit courts routinely interpret and apply federal law.

(2) The circuit court erred in holding that the state registration requirements violate article I, section 13 as applied to Doe. Section 589.400.1(7) requires lifetime registration of "[a]ny person

who … has been or is required to register under … federal … law." Doe admits in the stipulated record that, at least until 2009, he was required to register as a sex offender pursuant to the federal act. Although article I, section 13 prohibits the state from imposing registration requirements based solely on the commission of a sex crime prior to those requirements' 1995 enactment, it does not prohibit application of the state registration requirements to individuals who "are" or "have been" subject to the independent registration requirements of the federal act. In Doe's case, the state registration requirement is based on an independent federal registration requirement, not solely on the fact of a past conviction. Because he "has been" required to register pursuant to the federal act, he presently is required to register pursuant to the state act. This portion of the judgment is reversed. Because this case was tried on a stipulated record, however, there are no unresolved factual disputes that warrant remanding (sending back) the case to the circuit court.

(3) Because Doe is required to register under the state act, the circuit court's judgment is affirmed to the extent it does not order the state to destroy Doe's registration records.