

**Summary of SC92978, *John Roe I v. Colonel Ron Replogle, et al.***

Appeal from the Jackson County circuit court, Judge Peggy Stevens McGraw  
Argued and submitted May 22, 2013; opinion issued October 1, 2013

**Attorneys:** Roe was represented by Arthur A. Benson II and Jamie Kathryn Lansford of Arthur Benson & Associates in Kansas City, (816) 531-6565; and the state was represented by P. Benjamin Cox of the attorney general's office in Kansas City, (573) 751-3321, and Abbe M. Feitelberg of the Jackson County counselor's office in Kansas City, (816) 881-3279.

*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:** A man who pleaded guilty to sodomy appeals a judgment finding the federal sex offender registration act is constitutional as applied to him. In a unanimous decision written by Judge Patricia Breckenridge, the Supreme Court of Missouri affirms the judgment. The federal registration act does not violate the federal constitution's nondelegation doctrine, is not an unconstitutional ex post facto law and does not violate the man's substantive due process rights. Further, the act requires the man to register as a sex offender.

**Facts:** John Roe pleaded guilty to sodomy in 1994 and registered as a sex offender the next year, when the Missouri sex offender registration act became effective. He ceased to register in 2006 after this Court held that offenders convicted prior to the act's effective date need not register. Also in 2006, Congress passed a federal sex offender registration act. This Court ruled in *Doe v. Keathley* that the federal act created an obligation to register independent of the state act. Roe sued, challenging the constitutional validity of the federal act as applied to him. The circuit court granted the state's motion for summary judgment (judgment on the pleadings), and Roe appeals.

**AFFIRMED.**

**Court en banc holds:** (1) The federal registration act is not unconstitutional.

(a) The federal constitution grants Congress exclusive lawmaking authority and prohibits Congress from delegating those legislative functions. This nondelegation doctrine does not prohibit all delegations of Congressional authority but, instead, requires that Congress specify an "intelligible principle" to guide the party to whom authority is delegated. The United States Supreme Court has declined to rule on the nondelegation issue but has concluded that the federal act gives the federal attorney general authority to specify the act's applicability to offenders convicted before the act became effective, acknowledging that Congress intended this delegation to resolve practical problems arising when the act attempted to integrate diverse state registration systems. All federal courts that have ruled on the nondelegation issue have found that Congress provided a sufficient intelligible principal in this delegation of authority. This Court likewise finds the federal act does not violate the nondelegation doctrine.

(b) The federal act is not an unconstitutional ex post facto law. Both the United States Supreme Court and this Court previously have held that a statute requiring pre-act sex offenders to register does not violate either the federal or state constitutional bans on ex post facto laws because the registration requirement is civil in nature and not punitive.

(c) Neither the state act's nor federal act's registration requirement violates Roe's substantive due process rights because the requirement does not implicate a fundamental right and it rationally is related to a legitimate state interest.

(2) The federal act requires Roe to register even though it was enacted after he completed his involvement in the criminal justice system. It is irrelevant that the attorney general's guidelines mandate that a state require registration only of pre-act offenders who still are involved in the criminal justice system. As this Court held in *Keathley*, the federal registration requirements apply to all individuals convicted of a sex offense regardless of whether they still are in the criminal justice system. This requirement does not violate the state constitution's ban on ex post facto or retrospective laws because that prohibition applies only to state, not federal, legislation. It also is irrelevant – in this action in which Roe requests a ruling that he not be required to register – whether and by what authority he may be prosecuted for failing to register.