

No. 18-308

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**In The Supreme Court of the United States**

ANTHONY RAYSHON BETHEA,  
*Petitioner,*

v.

NORTH CAROLINA  
*Respondent.*

On Petition for a Writ of Certiorari  
To the Court of Appeals of North Carolina

**BRIEF *AMICI CURIAE* FOR THE  
NATIONAL ASSOCIATION FOR RATIONAL  
SEXUAL OFFENSE LAWS AND NORTH  
CAROLINA RATIONAL SEXUAL OFFENSE  
LAWS IN SUPPORT OF PETITIONER**

SARAH M. SHALF  
*Counsel of Record*  
Emory Law School  
Supreme Court Advocacy Program  
1301 Clifton Road  
Atlanta, GA 30322  
(404) 712-4652  
[sarah.shalf@emory.edu](mailto:sarah.shalf@emory.edu)  
*Counsel for Amici Curiae*

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**INTERESTS OF AMICI CURIAE<sup>1</sup>**

The National Association for Rational Sexual Offense Laws (NARSOL) is a national nonprofit organization that advocates for rational, evidence-based sexual offense laws and policies. NARSOL is dedicated to defending the constitutional rights of American citizens and their families who suffer damaging collateral consequences due to overbroad sexual offense laws. NARSOL holds annual conferences across the United States promoting its values of evidence-based, constitutional sexual offense legislation. NARSOL's interest in this case is to provide anecdotal perspectives on how far-reaching "second-generation" sex offender laws can be, including punitive impacts on spouses, children, and employers who were not convicted as sex offenders. North Carolina Rational Sexual Offense Laws (NCRSOL) is an affiliate of NARSOL and represents more than 17,000 registrants in North Carolina.

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<sup>1</sup> Pursuant to Supreme Court Rule 37.6, amici curiae affirm that no counsel for a party authored this brief in whole or in part, that no counsel or a party made a monetary contribution intended to the preparation or submission of this brief and no person other than amici curiae or their counsels made a monetary contribution to its preparation or submission.

Pursuant to Supreme Court Rule 37.2, the Respondents and the Petitioners received at least 10-days' notice of the intent to file this brief under the Rule, each party has consented to the filing of this brief.

Amici submit this brief to illustrate the harsh impacts that “second generation” sex offender laws have had nationwide since their enactment following *Smith v. Doe* through both scholarship and first-hand anecdotes. These anecdotes provide context for the punitive effect that these laws have had, not just on registrants, but on their spouses, parents, children, and other family and community members.

**INTRODUCTION AND SUMMARY OF THE  
ARGUMENT**

In *Smith v. Doe*, 538 U.S. 84 (2003), this Court considered, and rejected, an Ex Post Facto Clause challenge to the retroactive application of a sex offender registry law in Alaska, holding that the law was civil, and not punitive. *Id.* at 105–06. At the time, Alaska’s sex offender law—like the laws of many other states—only required registration with the state in which the registrant was convicted, and that such information was made publicly available. *Id.* at 84. Since *Smith* was decided, states have enacted so-called “second-generation” sex offender laws, which restrict sex offenders from residing within certain distances of schools, parks, and daycare centers; barring registrants from certain occupations; mandating longer restriction periods; requiring frequent in-person reporting periods; and punishing violations of any of these requirements as felonies. Pet. for Cert. at 2. As the Petition persuasively argues, states are deeply divided about whether the retroactive application of these laws violates the Ex Post Facto clause of the Constitution, which requires a finding that these “second-generation” laws are punitive.

In making a determination about whether a particular law is punitive, the Court has considered five factors drawn from *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 168–69 (1963): (1) whether the burdens imposed by the statute have “been regarded in our history and traditions as punishment”; (2) whether the statute “imposes an affirmative disability



or restraint”; (3) whether the statute “promotes the traditional aims of punishment”; (4) whether the statute “has a rational connection to a non-punitive purpose”; and (5) whether the statute “is excessive with respect to this purpose.” *Smith*, 538 U.S. at 97.

This brief focuses on four specific harms of “second-generation” sex offender laws: (1) the harassment and “vigilante justice” suffered by registrants and their families; (2) the inability of registrants to fully engage as parents due to being prohibited to enter school grounds; (3) the severe impact on registrants’ ability to pursue or continue meaningful professions due to backlash from employment information being included in registrant listings; and (4) the actual or constructive denial of access to public shelters, including during emergencies. These harms directly relate to factors (2) and (5) from *Kennedy v. Mendoza-Martinez*, because the excessive restrictions impose an affirmative disability or restraint on the activities that registrants can engage in or where registrants can go, and because the statutes are excessive in the way that they constructively punish the family members and employers of registrants—who themselves were not convicted of a sexual offense.

## ARGUMENT

### **I. REGISTRANTS AND THEIR NON-REGISTRANT FAMILY MEMBERS WHO ARE IDENTIFIED THROUGH PUBLIC SEX OFFENDER REGISTRIES ARE SUBJECT TO HARASSMENT AND VIOLENCE AT THE HANDS OF COMMUNITY MEMBERS.**

In 1996, Congress amended the Jacob Wetterling Act to allow state law enforcement agencies to disseminate the registration information of persons on the state's sex offender registries. 42 U.S.C. §14071. In 2006, just three years after the Supreme Court's landmark *Ex Post Facto* decision in *Smith v. Doe*, Congress passed the Sex Offender Registration and Notification Act (SORNA), which expanded the community notification requirements and the types of crimes that required individuals to register. 42 U.S.C. 16901–16929; *see* Catherine L. Carpenter & Amy E. Beverlin, *The Evolution of Unconstitutionality in Sex Offender Registration*, 63 HASTINGS L. J. 1071, 1077–78 (2012).

Personal information of sex offenders is now publicly available through each state's sex offender registry; a search for Mr. Bethea on the registry reveals his picture, date of birth, and address. Search for "Anthony Rayshon Bethea" on the National Sex Offender Registry. Accessed September 30, 2018. The easy availability of personal information has led to a "vigilante response" from community members. *See* Catherine L. Carpenter & Amy E. Beverlin, *The Evolution of Unconstitutionality in Sex Offender*

*Registration*, 63 HASTINGS L. J. 1071, 1128 (2012). Some jurisdictions have included disclaimers on registry websites against the misuse of registry information. *Id.* (citing *Russell v. Gregoire*, 124 F.3d 1079, 1092 (9th Cir. 1997); *E.B. v. Verniero*, 119 F.3d 1077, 1104 (3d. Cir. 1997)). Although jurisdictions have discouraged the “vigilante response” to this publicized information, *see Russell*, 124 F.3d at 1092, these warnings have largely fallen on deaf ears. *See Carpenter* at 1128.

NARSOL reached out to individuals throughout the United States who are currently on the sex offender registry or who have family members or close friends on a sex offender registry.

An individual who identified himself as “Michael C.,” who is currently registered in Indiana, stated:

On one occasion in 2018 . . . I was forced [to] defend myself against an angry, drunken, and hostile neighbor who began yelling profanities, banging on my front door, lobbing glass beer bottles at my apartment, and threatened me with harm because I was, in his words, “a [expletive] registered child molester.” ... [A]fter several panicky hours locked in my bedroom, I finally maced him and called the police. When the police arrived, they started arresting the suspect. But once they called in my name to dispatch, and my name came back “Code 80, Predator,” the police released

the suspect, aided him in getting back into his house, and made me into the criminal. I was forced to undergo a 4 week investigation to prove I had permission to possess mace.

Statement of Michael C. provided to National Association for Rational Sexual Offense Laws. Accessed on September 25, 2018.

An individual who identified himself as “John R.” stated:

One day I got a knock on the door. . . I opened the door to a man holding a pistol to my face. He said that he knew I was on the sex offender registry and was there to end my pathetic life ... I was able to get the gun out of the guy’s hands and I called the police who arrested the man. . . [T]he man is serving . . . life because the police found out that the man had killed [two] other sex offenders prior to getting to me. . . because the guy saw my name on the sex offender registry.

Statement of John R. provided to National Association for Rational Sexual Offense Laws. Accessed on September 25, 2018.

An individual who identified himself as “Bob L.” who is on the Virginia sex offender registry, stated:

[A] [n]eighbor threatened to kill me daily; threatened to kill my children; videotaped me every day, and my children. Stood on his roof with nigh[t]

vision binoculars with [a] camera. Threatened to kill my dog. Ran outside every time we left the front door of our home. . . He harassed my children daily for seven years until they turned eighteen and left the home. My children and wife had to live the harassment at school. [O]ther adults would spread [that] I was [a registered sex offender] ... The Virginia state police did nothing. No harassment laws were upheld because I was a [registered sex offender].

Statement of Bob L. provided to National Association for Rational Sexual Offense Laws. Accessed on September 25, 2018.

An individual who identified himself as “Daniel C.” stated:

I have been attacked and beaten at a local bar while I was minding my own business . . . One stranger who only recognized me from my picture on the registry hit me hard enough to knock me off my barstool while his buddy broke a pool cue over my head. I was forced to fight back, even though I really only wanted to enjoy a cold drink in peace. On another occasion, a different man whom I'd never met broke into my home and attacked me. He had the registry flyer in his hand when the police showed up and even admitted he was there solely to exact some bizarre form of “justice.” [Y]et I was the one who went to jail.

Statement of Daniel C. provided to National Association for Rational Sexual Offense Laws. Accessed on September 25, 2018.

An individual who identified herself as “Kim A.” stated:

As a single woman living alone, I have felt very unsafe having my name, picture, and address on the registry. I once discovered a death threat written on the wall beside my front door by someone who knew nothing about me except that I am on the registry. I have also been approached by men who have found me on the registry and wanted to “hook up” with me, assuming I am promiscuous because of my [sex offender] record, and they make sure to let me know that they know where I live.

Statement of Kim A. provided to National Association for Rational Sexual Offense Laws. Accessed on September 25, 2018.

These statements illustrate not only the extent of violent harassment that registrants have faced, but also that this wave of harassment is often directly tied to the availability of registrants’ personal information online. As the statement of “Bob C.” illustrates, harassment is also directed towards family members who are not convicted sex offenders. The publication of registrants’ personal information is a new requirement for many states’ registration laws post-*Smith v. Doe*.

**II. THE RESTRICTIVE MEASURES OF SECOND-GENERATION SEX OFFENSE LAWS EXTEND TO THE CHILDREN AND FAMILY MEMBERS OF REGISTRANTS, PARTICULARLY IN THE CONTEXT OF PARENTING.**

During his trial, Mr. Bethea explained the harsh impact of North Carolina's new sex offender laws on his ability to care for his children. Pet. for Cert. at 7. Mr. Bethea noted that he could not take his children to the park or to the state fair. *Id.* He missed parent-teacher conferences and his son's elementary and middle school graduations. *Id.* Mr. Bethea's story is not unique, nor is his experience limited to registrants in North Carolina.

Directly and indirectly, sex offender registration negatively influences the parental and familial relationships of those affected, which can lead to reduced educational and extracurricular opportunities for children of those who have already served their sentence. Researchers have noted that "[t]he social stigma and shame of sex offender registration can preclude or discourage participation in prosocial roles, including... education [and] parenting." Jill S. Levenson, David A. D'Amora, & Andrea L. Hern, *Megan's Law and its Impact on Community Re-Entry for Sex Offenders*. 21 BEHAV. SCI. L. 49, 62 (2005). For those to whom the second-generation sex offender statutes apply retroactively, most are now excluded from participating in their children's school graduations, parent-teacher conferences, parent-teacher association meetings, picking their kids up from school, and supporting their

children who participate in extracurricular activities that take place on restricted properties such as schools, recreation centers, and daycare centers—even though at the time of their conviction, the registrant was not subject to such harsh restrictions. *See* Brenda V. Smith, *Fifty State Survey Of Adult Sex Offender Registration Laws*. August 1, 2009. Available at: <https://ssrn.com/abstract=1517369>; *see generally* Pet. for Cert.

Some individuals on registers have used the term “banishment” to describe the condition of themselves and their families. *See generally* Statements provided to National Association of Rational Sex Offense Laws. Accessed September 25, 2018. In *Smith v. Doe*, when discussing the “first-generation” sex offender registry laws in Alaska, the Court found that registrants were not banished because they were “free to move where they wish and to live and work as other citizens, with no supervision.” *Smith*, 538 U.S. 84 at 101. However, many states’ “second generation” sex offender laws include harsh restrictions on registrants’ movement, where registrants can live and work, and require in-person reporting with local law enforcement. *See* Pet. for Cert. at 20–24. As the statements provided to NARSOL below illustrate, these restrictions also negatively impact registrants’ children and spouses.

An individual who identified himself as “Juan L.” provided a statement to NARSOL regarding his inability to be a fully engaged parent:

The problem is that the registry makes  
being a fully engaged parent and



contributor to the community next to impossible. The registry prevents me from attending school events. I can never be a parent in the stands cheering my child at her school concerts, her school meets, her art shows, or any school event. I cannot volunteer at her school. I cannot be in a park with my child . . . [F]or my child, I am the absent dad, the dad that is never there while all her friends' moms and dads are there for her friends."

Statement of Juan L. provided to National Association for Rational Sexual Offense Laws. Accessed on September 25, 2018.

Another individual who identified himself as "Thanh T." stated:

When my children [started school] last year, I wanted to sit with them in the cafeteria but after a school ID check...I was escorted to a principal[']s office and ... was told to leave...My children always ask me how come I never show up in school to cheer them on or participated in any teacher conference, [and] I do not know what to tell them.

Statement of Thanh T. provided to National Association for Rational Sexual Offense Laws. Accessed on September 25, 2018.

An individual who identified himself as "William H." stated:

My daughter asks me to attend a school function, a play, a performance, or an

athletic event. I have to constantly remind her that I am forbidden from attending, that I am forbidden from attending a soccer or football game, even if I was with her. I am forbidden this connection with my grandchildren. I am forbidden the joys of watching them learn and grow by participating in school activities.

Statement of William H. provided to National Association for Rational Sexual Offense Laws. Accessed on September 25, 2018.

An individual who identified himself as “Patrick G.” stated:

My son was attending a local Catholic school for pre-K. My son had a program in his classroom about a month into the school year. . . [a]s we started walking down the hall, the school principal asked me to come into his office, sat me down, and told me that I could not walk down the hall or anywhere else without him or his assistant . . . I didn’t want to expose my son to that, to leave him to ask why his dad always has the principal following him.

Statement of Patrick G. provided to National Association for Rational Sexual Offense Laws. Accessed on September 25, 2018.

An individual who identifies herself as “Kim A.” stated:

My children were publicly humiliated to the point that my ex-husband eventually had to move our son to another state to protect him . . . I had to choose not to attend his high school graduation, since the only way I was allowed to attend was to announce to the school that I am a sex offender.

Statement of Kim A. provided to National Association for Rational Sexual Offense Laws. Accessed on September 25, 2018.

An individual who identifies himself as “Matt P.” stated:

[I]t affects my children when I cannot attend their first day of school. I couldn't attend kindergarten graduation. My daughter was born having seizures and has a disability and requires a lot of attention[.] I'm not allowed to attend very important meetings regarding her progress and her future.

Statement of Matt P. provided to National Association for Rational Sexual Offense Laws Accessed on September 25, 2018.

The individuals who provided these statements are on sex offender registries throughout the United States, and represent a small subset of the total population of individuals on a sex offender registry. Their testimonials show a pattern of inability to fully engage as parents, husbands, wives, and family members, and the resulting impact of their registry status on family members.

**III. POSTING REGISTRANTS' EMPLOYMENT INFORMATION PUBLICLY IS A PUNITIVE MEASURE TOWARDS EMPLOYERS DUE TO THE BACKLASH EMPLOYERS RECEIVE FROM HIRING A REGISTRANT, RESULTING IN REGISTRANTS BEING UNABLE TO PURSUE MEANINGFUL CAREERS.**

When second generation laws went into effect in North Carolina, Mr. Bethea could no longer pursue his profession as a truck driver, because “the red flag always come[s] up as a sex offender. It’s not that it’s a felony on my records because they only go back five and six years. But every time they see I’m still on the registry, it throws a flag.” Pet. For Cert. at 6–7. In a study involving registrants on the Kentucky registry, 42.7% of study participants reported that they lost their job as a result of their status. Richard Tewksbury, *Collateral Consequences of Sex Offender Registration*. 21 J. CONTEMPORARY CRIM. JUST. 67, 75 (2005).

The statements provided to NARSOL illustrate how employment challenges have resulted not only from a direct legal prohibition on a certain type of employment, but also because employers’ information is now included as part of registrant listings, in effect punishing employers who hire registrants and subjecting employers to backlash from the community.

An individual identifying himself as “Kevin M.” recounted the following experience after a 2008

change to New Hampshire's registry laws resulted in his registration status becoming public:

I ... lost a job as a result of the public registry. I was performing office computer work for a trucking company, whose owner knows me personally and was well aware of my crime. After a year, the boss ... ended my employment. He handed me a copy of my public registration page and said someone in the office printed it and passed it around. They demanded a meeting with the boss where they threatened to quit if I was retained. The owner apologized, but said he had to look out for the business, and although he doesn't agree with the other workers, he couldn't risk losing them.

Statement of Kevin M., provided to National Association for Rational Sexual Offense Laws, Accessed September 25, 2018.

An individual identifying himself as "Marc W.," who was on the Illinois registry and had to relocate to another state due to loss of his license, stated:

... I had completed training in pediatric critical care medicine and anesthesiology and was fully licensed in Illinois and Pennsylvania to practice medicine. After my arrest ... my Illinois license was suspended. Following a favorable sentence hearing with glowing letters of recommendation, my license was left as "suspended indefinitely" rather than revoked, indicating that I might be able

to restore my license at some time in the future. However, in 2011, the State of Illinois enacted [20 ILCS 2105/2105-165] that precluded anyone convicted of a crime that requires registration under the Sex Offender Registration Act from possessing a license as a health care provider. Thus, my license was permanently revoked in August 2011. ... To this day, I am still precluded from practicing medicine in Illinois...having my license revoked in one state makes it all but impossible to obtain a license in another state.

Statement of Marc W., provided to National Association for Rational Sexual Offense Laws. Accessed September 25, 2018.

An individual who identified himself as “Michael C.,” who is registered in Indiana, stated:  
[C]ountless fast food restaurants, mom-and-pop shops, manufacturers, and professional business declined to hire me, not because I had committed a felony, but ... because the Indiana Sex Offender Registry forces me to register the business address of the place(s) where I work and the owners/managers told me they did not, and still to this day do not, want to have their business associated with the [registry].

Statement of Michael C., provided to National Association for Rational Sexual Offense Laws. Accessed September 25, 2018.

An individual identifying himself as “Ernest K.” stated:

For about fifteen years I have had income from renting a vacation home which I own in a location distant from my place of residence ... In the Spring of 2018 I received a phone call from my rental agency and was read a canned script which stated that since I was on the sex offender registry they would cancel my bookings, delete my advertisements, and cancel my subscription to their service. I tried to point out that whenever anyone was staying there I was 2,000 miles away, and that I had rented through them for many years with no problem whatsoever ... my presence on the rental site simply vanished.

Statement of Ernest K., provided to National Association for Rational Sexual Offense Laws. Accessed September 25, 2018.

An individual identifying himself as “Don L.” stated:

I took part-time work with a neighborhood grocery. ... The store was located at an address approved by the local Sheriff’s Department, nowhere near a school or church, and not frequented by children. ... One of our customers ... made it her mission to have me fired from the market, threatening that she would wage a negative social media campaign

through neighborhood platforms, the goal being to bring down the business based on it being sex-offender-friendly and unsuitable for the neighborhood. ... In the wake of this ... I elected to bow out, sacrificing my investment of time and money in the business.”

Statement of Don L., provided to National Association for Rational Sexual Offense Laws. Accessed September 25, 2018.

An individual identifying himself as “Daniel S.” stated:

I have been turned down from jobs I am well qualified for due to information on the sex offender list ... I have been dismissed from one job because a woman ... scan[ned] the list of offenders and saw that I worked for someone she knew and she called my employer and told him. ... The Commonwealth of Virginia probation mandates that I maintain employment but it is very hard because of the freely disseminated information on the sex offender list.”

Statement of Daniel S., provided to National Association for Rational Sexual Offense Laws. Accessed September 25, 2018.

An individual identifying himself as “Jim C.” stated:

I was not required to register or anything at the time of sentencing. Now I’m required to register four times a year for



the ‘rest of my natural born life.’ The state ... took my business license away costing me my very successful plumbing company. ... I am forced to lie every three months as to why I need to be late to work to register. [My city] only does registration two days a week from 8 a.m. to 3 p.m. and ... many times are not available to bother with me. So I have to lie again the next week to miss work again to see if someone has the time to do the same paper work over and over again.”

Statement of Jim C., provided to National Association for Rational Sexual Offense Laws. Accessed September 25, 2018.

An individual identifying herself as “Anne B.,” who is registered in Virginia, stated:

In Virginia in 1999 ... there was one target. Then w[ith] the continual changes to the laws in 2006 to include employer name and address, the target on my back increased. The registry changed in scope and accessibility, making photo[s], adres[es], all associated names, vehicle registration, employer visible...now any employer must consider their risk in hiring me, or anyone else, because they will be part of the registry themselves. [T]he employer is ... associated with the person – just for believing in someone and offering them a chance to become their best professional

self and employing them – their brand becomes [at] risk, so they are left with the only choice possible – protect their brand, and decline the employment.

Statement of Anne B., provided to National Association for Rational Sexual Offense Laws. Accessed September 25, 2018.

These statements demonstrate the difficult position that employers find themselves in, knowing that their business' information will be published as part of a registry listing and can easily be searched online. Including employment information as part of a registry listing has the effect of being punitive towards an employer who would consider employing a registrant, forcing an employer to choose between their employee and their business' reputation. When employers choose to protect the reputation of their businesses, registrants then bear the burden of limited employment opportunities.

**IV. REGISTRANTS HAVE BEEN, OR CAN BE, DENIED ACCESS TO PUBLIC SHELTERS, EITHER ACTIVELY OR CONSTRUCTIVELY, DUE TO THEIR STATUS AS A REGISTRANT.**

When publicly-accessible shelter spaces conflict with sex offender restrictions, such as maintaining a certain distance from schools or from child-care facilities, there is confusion as to whether a registrant may access that space. *See* Sudha Arlikatti, James Kendra & Nita A. Clark, *Challenges for Multi-Sector Organizations in Tracking and Sheltering Registered*

*Sex Offenders in Disasters*, 9 J. HOMELAND SECURITY EMERGENCY MANAGEMENT 1 (2012).

Following Hurricane Katrina in 2005, law enforcement officials in Louisiana reported that anywhere between 2,000 and 15,000 evacuees were registered sex offenders who sought refuge in storm shelters alongside the general population. See “Housing Sex Offenders in Emergency Shelters.” Memorandum, International Association of Emergency Managers. November 2015. <http://www.iaem.com/documents/CHHS-Memo-%20Housing-Sex%20Offender-in-Emergency-Shelters.pdf>. Accessed September 28, 2018. Officials in Louisiana responded to this discovery by enacting a state law that prohibited sex offenders from being permitted to seek refuge in shelters along with “general population evacuees,” and instead required law enforcement to set up alternative locations for shelters at their discretion. La. Rev. Stat. Ann. §29:726.

During Hurricane Irma in 2017, news outlets reported that registrants were struggling to find storm shelters in South Florida, with a small handful of registrants being permitted to stay in local jails. See Wilson Sayre, “During Hurricane Irma, Registered Sex Offenders Struggle to Find Shelter.” WLRN News, September 10, 2017. <http://www.wlrn.org/post/during-hurricane-irma-registered-sex-offenders-struggle-find-shelter>. Accessed September 28, 2018. In North Carolina, there were questions as to whether temporary relocation to a storm shelter would violate a prohibition of anyone on a sex offender registry from

residing within 1,000 feet of a public or non-public school or child-care center. G.S. §14-208.16; *see also* James Markham, “Sex Offenders in Emergency Shelters,” UNC Criminal Law Blog, September 7, 2017. <https://www.sog.unc.edu/blogs/nc-criminal-law/sex-offenders-emergency-shelters>. Accessed September 28, 2018. Some states require registrants to provide a secondary address if they relocate during an emergency, but a combination of logistical problems during an emergency situation, and some registrants having few or no people to rely on for emergency housing, makes that requirement nearly impossible. *See* “A Dilemma Over Sheltering Sex Offenders.”

*All Things Considered*, NATIONAL PUBLIC RADIO. August 19, 2015. <https://www.npr.org/templates/story/story.php?storyId=4807625>. Accessed September 30, 2018.

In addition to storm shelters during emergency situations, registrants have also—and often—been denied access to homeless shelters, a particularly challenging problem given that the harsh residential restrictions placed on some registrants have left homelessness as the only realistic or affordable housing option available. *See* Shawn Rolfe, Richard Tewksbury & Ryan Schroeder, *Homeless Shelters’ Policy on Sex Offenders: Is This Another Collateral Consequence?* 61 INT. J. OFFENDER THERAPY AND COMP. CRIM. 1833 (2016). The consequences of being denied access to a homeless shelter have been severe for many registrants, and contributed to the death of at least one registrant: The body of Thomas Pauli was found in the snow in front of an auto body salvage shop

in Grand Rapids, Michigan, shortly after he was denied access to a homeless shelter due to his status as a sex offender. See Scott Michels, *Sex Offender Dies In Cold After Being Denied From Shelter*, ABC NEWS, January 30, 2009. <https://abcnews.go.com/TheLaw/story?id=6769453&page=1>. Accessed September 30, 2018.

Registrants across the country provided statements to NARSOL regarding challenges in finding homeless and storm shelters. An individual who identified himself as “Michael C.,” who is registered in Indiana, stated:

The local law enforcement office was ten miles from the only homeless shelter that would accept me because I am a registered citizen. I had to [register] in person – no exceptions . . . I was forced to walk – starting early in the morning to be at the place of registration on time. I had to do this with worn-out shoes, little clothing in the middle of winter, and whether it was raining ... snowing ... [or] if I was sick.

Statement of Michael C., provided to National Association for Rational Sexual Offense Laws. Accessed September 25, 2018.

An individual who identified himself as “Michael H.,” who is on the sex offender registry in New Hampshire, stated:

While I was in the State of New Hampshire, I was denied access to homeless shelters ... as well as

apartments ... I am also barred from living in Section 8 or public housing. As a disabled individual subsisting on \$820 per month from [Social Security and Disability Insurance], these circumstances make my life extremely difficult . . . it took almost a year of homelessness which led to a near-death experience and an extended stay in the hospital before [others] realized that my life was unmanageable specifically due to my status as a sex offender.

Statement of Michael H., provided to National Association for Rational Sexual Offense Laws. Accessed September 25, 2018.

An individual who identified himself as “William H.,” who was on a sex offender registry in North Carolina at the time of his incident, stated:

[W]hen a hurricane was approaching the coastal county where I live I received a phone call from the Sheriff’s department. A female told me that if I went to a shelter that was located in a school [zone], public or private, that I would be arrested. She offered no alternative. She informed me that if I decided to evacuate I needed to contact the Sherriff’s department with my whereabouts . . . like everyone else, I [was] anxious about what to do, should I abandon my home and leave or stay[?] But along with this decision is the added pressure of being in compliance with a law that reminds me

of just how worthless I am. Shelters are opening and we are reminded that we may bring our dogs or cats . . . I am subhuman, beneath the level of protection offered to our household pets.

Statement of William H., provided to National Association for Rational Sexual Offense Laws. Accessed September 25, 2018.

An individual who identified himself as “Daniel C.” stated:

Homeless shelters and halfway houses won’t take me . . . when my house caught fire one winter, I went to the Salvation Army to get temporary assistance and a place to stay. Initially, they put me up in a local motel, but when they found out about my being on the registry, they forced me to leave the motel and they even forbade me from setting foot on their property. The temperature that night was below zero and I nearly froze to death . . .

Statement from Daniel C., provided to National Association for Rational Sexual Offense Laws. Accessed September 25, 2018.

These statements illustrate how the challenges registrants face when trying to legally seek shelter during times of homelessness or emergencies severely punishes registrants. The confusion results in registrants being forced to make an impossible choice between seeking shelter at the risk of breaking sex offense registration laws, or putting themselves at the

mercy of the elements to avoid a potential criminal charge.

### CONCLUSION

The widespread impact of retroactively applied second-generation sex offender laws, as illustrated by academic studies and personal anecdotes, clearly demonstrate how these punitive measures impact both registrants and their children, spouses, family members, and employers who were not convicted of a sexual offense. North Carolina's government interest in protecting the community cannot be met when its legislation is simultaneously hurting the families and employers of registrants who themselves are not sex offenders. The collateral damage from such harsh sex offender registry laws are tantamount to punitive measures, and as such, should be held to be violations of the Ex Post Facto Clause. For the foregoing reasons, *amici* respectfully ask this Court to grant the Petition for Writ of Certiorari and reverse the decision of the North Carolina Supreme Court.

Respectfully Submitted,

SARAH M. SHALF  
*Counsel of Record*  
Emory Law School Supreme  
Court Advocacy Program  
1301 Clifton Road  
Atlanta, GA 30322  
(404) 712-4652  
[sarah.shalf@emory.edu](mailto:sarah.shalf@emory.edu)  
*Counsel for Amici Curiae*