STATE OF MICHIGAN

IN THE SUPREME COURT

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

-vs-

PAUL J. BETTS,

Defendant-Appellee.
_____/

Supreme Court No. 148981

Court of Appeals No. 319642

Circuit Court No. 12-62665 FH

MUSKEGON COUNTY PROSECUTOR
Attorneys for Plaintiff-Appellee

STATE APPELLATE DEFENDER OFFICE
Attorneys for Defendant-Appellant

Defendant-Appellant's Supplemental Brief on Appeal

STATE APPELLATE DEFENDER OFFICE

BY: JESSICA ZIMBELMAN (P 72042)
SOFIA NELSON (P 77960)
Assistant Defenders
200 North Washington
Suite 250
Lansing, MI 48913
(517) 334-6069

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Case

Constitutions, Statutes and Court Rules

Public Acts

Other Authorities

STATEMENT OF QUESTIONS PRESENTED

I. Does SORA's numerous obligations, disabilities, and restraints amount to punishment requiring Mr. Betts to register as a sex offender as a consequence of a plea entered before sora was enacted violates the ex post facto clause?

Trial Court answers, "No".

Court of Appeals answers, "No".

Plaintiff-Appellee answers, "No".

Mr. Betts answers, "Yes".

II. Does retroactive imposition of SORA on Mr. Betts violate his right to due process?

Trial Court answers, "No".

Court of Appeals answers, "No".

Plaintiff-Appellee answers, "No".

Mr. Betts answers, "Yes".

SUMMARY OF THE ARGUMENT

When Paul Betts pled guilty to a felony twenty-five years ago, he had no way to predict the severe ways his plea would affect the rest of his life. Michigan's Sex Offender Registration Act (SORA) did not exist at that time. Mr. Betts knew he would go to prison, which he did, and he successfully completed a parole term. But he did not know that over the last two decades, the Legislature would continuously add obligation after obligation to what became a lifelong sentence.

SORA became effective October 1, 1995, almost two years after Mr. Betts's guilty plea. Yet, its requirements were retroactively imposed on him. While SORA was initially a private database for law enforcement, the numerous amendments have transformed SORA into a punitive statute.

Mr. Betts's personal information is now publicly broadcast on the internet. He cannot live, work, or loiter within 1,000 feet of a school. He was branded as a Tier III registrant and forced to immediately report in-person for a multitude of reasons, for the rest of his life. He has to pay increased registration fees. There has never been any individualized assessment as to Mr. Betts's risk for reoffending. There is no way for Mr. Betts to petition for removal from SORA based on a lack of risk. Mr. Betts told the trial court about the affects registration has had on his life, including not being able to purchase a home, and the shaming and ostracism he has received from the community.

The Ex Post Facto Clause prohibits retroactive punishment, and because SORA has been transformed in the last twenty years into a punitive statute, it cannot be retroactively imposed on Mr. Betts. This Court should vacate his conviction and remand to the trial court so Mr. Betts can be removed from the registry.[1]

[1] The legal arguments in Part I and Part II are substantially similar to the arguments in the supplemental brief in *People v Snyder*, 501 Mich 1078; 911 NW2d 467 (2018). The questions presented by this Court are the same.

STATEMENT OF FACTS

Almost twenty-five years ago, on December 16, 1993, Paul Betts pled guilty to criminal sexual conduct in the second degree.[2] *Appendix*, 26a, 38a. He was sentenced to a prison term and was paroled in 1999. *Appendix*, 18a.

On May 30, 2013, Mr. Betts pled no contest to failure to register as a sex offender. MCL 28.729(1)(a). *Appendix*, 40a. Mr. Betts did not believe he had to register in Michigan, as he was previously living in Indiana and did not have to register there. *Appendix*, 49a.

The trial court sentenced Mr. Betts to a three-year term of probation, with the first year to be served in the county jail, suspended for the pendency of his appeal. *Appendix*, 54a. The plea was conditional as the trial court allowed Mr. Betts to raise challenges to the constitutionality of the Sex Offender Registration Act, which were raised in the trial court and might otherwise have been forfeited by a plea. *Appendix*, 55a. Mr. Betts filed a delayed application for leave to appeal in the Court of Appeals. *Appendix*, 65a-92a. The Court of Appeals denied leave on February 27, 2014. *Appendix*, 93a. Mr. Betts filed an application for leave to appeal in this Court, and on June 27, 2018, this Court ordered oral argument on the application. *Appendix*, 97a.

[2] This Court should make note of the correct underlying conviction, CSC second degree. The prosecution's brief in opposition to Mr. Betts's application for leave to appeal erroneously refers to the conviction as a CSC first degree conviction at several points. Mr. Betts points this out in advance, although the error may be corrected in the prosecutor's supplemental brief.

I. SORA's numerous obligations, disabilities, and restraints amount to punishment. Requiring Mr. Betts to register as a sex offender as a consequence of a plea entered before SORA was enacted violates the ex post facto clause.

Issue Preservation

Mr. Betts challenged the application of the Sex Offender Registration Act (SORA) to him on Ex Post Facto grounds in the trial court and the Court of Appeals. *Appendix*, 1a-30a and 65a-92a.

Standard of Review

This Court reviews constitutional issues de novo. *People v Hall*, 499 Mich 446, 452; 884 NW2d 561 (2016). "Whether a statutory scheme is civil or criminal is ... a question of statutory construction." *Smith v Doe,* 538 US 84, 92; 123 S Ct 1140; 15 L Ed 2d 164 (2003) (citation and quotation marks omitted). Statutory interpretation is a question of law that this Court also reviews de novo. *Hall*, 499 Mich at 452.

Discussion

The Ex Post Facto Clauses of the United States and Michigan Constitutions bar the legislature from retroactively inflicting greater punishment than that allowed at the time of the crime. US Const, art I, § 10, cl 1; Const 1963, Art I[3], § 10; *Collins v Youngblood*, 497 US 37, 42-43; 110 S Ct 2715; 111 L Ed 2d 30 (1990); *People v Earl*, 495 Mich 33, 37; 845 NW2d 721 (2014). SORA violates this rule for those convicted prior to its enactment.

The Ex Post Facto Clause seeks to prevent two things: (1) lack of fair notice and interference with settled expectations and (2) vindictive legislation. *Landgraf v USI Film Products*, 511 US 244, 266; 114 S Ct 1483; 128 L Ed 2d 229 (1994); W*eaver v Graham*, 450 US 24, 28-29; 101 S Ct

[3] The language contained in the Michigan Constitution's Ex Post Facto Clause is very similar to that contained in the United States' Constitution, and the Court of Appeals has held that Michigan's Ex Post Facto Clause is not more expansive than the federal Ex Post Facto Clause. *In re Contempt of Henry*, 282 Mich App 656, 682; 765 NW2d 44 (2009).

960; 67 L Ed 2d 17 (1981). The framers wrote about the dangers of retroactive punishment: Alexander Hamilton explained that Ex Post Facto laws were "'the favorite and most formidable instruments of tyranny,' The Federalist No. 84, p. 512." *Carmell v Texas*, 529 US 513, 532; 120 S Ct 1620; 146 L Ed 2d 577 (2000).

The harm caused by retroactive imposition of the SORA is precisely the kind of harm that the Ex Post Facto Clause was adopted to prevent. As the Sixth Circuit recently recognized, in finding that Michigan's SORA was punishment, "the fact that sex offenders are so widely feared and disdained by the general public implicates the core counter-majoritarian principle embodied in the Ex Post Facto clause." *Does #1-5 v Snyder*, 834 F3d 696, 706 (CA 6, 2016), reh den (Sept. 15, 2016), *cert den Snyder v John Does* #1-5, 138 S Ct 55; 199 L Ed 2d 18 (2017).[4]

A. History and Development of the Sex Offenders Registration Act

SORA, MCL 28.721 et seq, took effect October 1, 1995, after Mr. Betts pled guilty to CSC-second. When the registry was first created it was a private law enforcement database of convictions. 1994 PA 286, 287, 294, and 355; *People v Dipiazza,* 286 Mich App 137, 142-143; 778 NW2d 264 (2009). Over the last two decades SORA has been amended nineteen times,[5] transforming registration from a confidential law enforcement database to a public database with a complex regime of reporting, monitoring, and control.

Initially, registration was confidential, except for "law enforcement purposes," and was not subject to the Freedom of Information Act. *Appendix*, 113a-116a. At the time of passage, there was opposition to the registry remaining confidential but a consensus emerged that "[a] sex offender

[4] The United States Supreme Court denied certiorari and thus, regardless of how this Court decides this case, the holding in *Does #1-5* is binding on the State of Michigan and is persuasive authority for this Court to consider.

[5]1995 PA 10; 1996 PA 494; 1999 PA 85; 2002 PA 542; 2004 PA 237; 2004 PA 238; 2004 PA 240; 2005 PA 121; 2005 PA 123; 2005 PA 127; 2005 PA 132; 2005 PA 301; 2005 PA 322; 2006 PA 46; 2006 PA 402; 2011 PA 17; 2011 PA 18; 2013 PA 2; 2013 PA 149.

registry should be used as a law enforcement tool, not as a mechanism to brand or ostracize particular members of a community." *Id.* Subsequent amendments have transformed the character of SORA and dramatically increased the law's punitive effects.

In 1999, the registry became available to the public online. This led to a great of deal of Mr. Betts's personal information being available on the internet including his address, license plate number, and date of birth. 1999 PA 85. SORA was transformed from a law enforcement tool to a way to mark registrants publicly. *Appendix*, 117a-122a. There was objection to the 1999 amendments, based on the ostracism and branding registrants were sure to face, and the ways SORA was becoming punitive:

> It seems that the law is rapidly increasing in its coverage and no longer includes just those offenders who, because of recidivism rates, pose a potential threat to the public. . . . It is bad enough to make the sex offender registry information available to the public, but to expand it to include photos of offenders is frightening. . . .The sex offender registry should be used as a law enforcement tool, not as a mechanism to brand or ostracize particular members of the community. The more details about the persons included in the registry, the more the act becomes a modern form of the stocks – more about harassing and continuing to punish the offender even after he or she has successfully completed a term of probation or parole and paid his or her debt to society. [*Appendix*, 117a-122a.]

In 2002, the legislature amended SORA to include a statement of intent:

> The legislature declares that the sex offenders registration act was enacted pursuant to the legislature's exercise of the police power of the state with the intent to better assist law enforcement officers and the people of this state in preventing and protecting against the commission of future criminal sexual acts by convicted sex offenders. The legislature has determined that a person who has been convicted of committing an offense covered by this act poses a potential serious menace and danger to the health, safety, morals, and welfare of the people, and particularly the children, of this state. The registration requirements of this act are intended to provide law enforcement and the people of this state with an appropriate, comprehensive, and effective means to monitor those persons who pose such a potential danger. [MCL 28.721a; PA 542 of 2002.]

In 2004, the Legislature amended SORA to require that the public internet registry include a photograph of the registrant. Again, there was opposition:

> House Bill 5195 would do little in reality to increase public safety but much to increase vigilantism and harassment against registrants. . . . [T]he bill as enrolled would apply to every registered sex offender, many of whom pose no risk of reoffending and probably shouldn't be on the list to begin with. Adding their pictures would do little more than subject them to increased humiliation and punishment. . . . [P]eople on the PSOR have a difficult time arranging appropriate housing and obtaining employment. Placing their pictures on the Internet may do little more than doom them to homelessness and unemployment – two factors known to greatly increase the likelihood of reoffending. [*Appendix*, 123a-126a.]

In 2006, "student safety zones" went into effect, retroactively imposing restrictions on where registrants could live, work, and "loiter." 2005 PA 121, 123, 127, 132, 301, and 322. Registrants were barred from living, working, or loitering within 1,000 feet of a school. MCL 28.734-735. Loitering was defined as "to remain for a period of time and under circumstances that a reasonable person would determine is for the primary purpose of observing or contacting minors." MCL 28.733(b). SORA's definition of loitering encompasses basic parenting activities such as picking one's children up from school or watching them play soccer.

In 2011, the Legislature rewrote SORA. Extensive immediate in-person reporting requirements were retroactively imposed. 2011 PA 17 and 18; MCL 28.725. SORA was amended to categorize registrants into one of three tiers based solely on their offense of conviction: Tier I, Tier II, or Tier III. MCL 28.722. The new tier classifications are published on the online registry, ostensibly corresponding to dangerousness, but are not actually based on any kind of individualized risk assessment. MCL 28.722(r)-(w). There are now regular in-person reporting requirements to verify residence and other information: once a year for Tier I (registration period-15 years), twice a year for Tier II (registration period-25 years) and four times a year for Tier III (registration period-life). MCL 28.725(10); MCL 28.725a(3).

The 2011 amendments also imposed immediate in-person reporting requirements when a registrant changes the following information: address, changing or discontinuing employment, enrolling or discontinuing in higher education, name changes, temporarily residing at other than

registered address for more than seven days, email address change, and purchase or regular operation of any vehicle. MCL 28.725(1)(a)-(h). Any change in this listed information requires in-person reporting within three business days; there is no exception. MCL 28.725(1)(a); MCL 28.722(g). Yet again, there was opposition to amending SORA. *Appendix*, 128a-137a. Most recently, in 2013 the initial registration fee was retroactively increased from $25 to $50, and an annual $50 fee was retroactively imposed. 2013 PA 2 and 149; MCL 28.724a; MCL 28.725a(6).

Despite repeatedly amending the statute to impose increasingly onerous obligations on registrants and publicly branding them as dangerous predators, there are limited provisions for removal. See MCL 28.728c. A very small minority of registrants are eligible to petition for removal. *Id.* Mr. Betts cannot petition for removal from SORA.

Even if the Legislature originally enacted SORA to aid law enforcement and to protect the public, the frequent and sweeping amendments transformed SORA into a statute that punishes Mr. Betts, and others subject to registration. Mr. Betts cannot live, work, or loiter in certain, large portions of the State. MCL 28.733-28.735. Mr. Betts must register for life, regardless of his risk of reoffending. MCL 28.725. Mr. Betts must report in-person at specified intervals and immediately following routine life events, regardless of his prior record of reporting or his individual risk. MCL 28.725; MCL 28.725a. And, Mr. Betts is financially burdened by increased registration fees. MCL 28.725a. The penalties for violating SORA include felony charges, as evidenced by Mr. Betts's conviction. MCL 28.729. These affirmative obligations, disabilities, and restraints touch nearly every aspect of Mr. Betts's life. *Appendix*, 1a-30a and 99a-112a.

As a result, the current version of Michigan's SORA violates the Ex Post Facto Clause of both the federal and state constitutions. US Const, Ams V, XIV; Mich Const 1963, art 1, § 17. SORA imposes retroactive sanctions for conduct committed before its enactment. The current requirements under the law are too numerous and onerous to be civil.

Many of Michigan's amendments were enacted between 2005 and 2011, subsequent to the United States Supreme Court's decision in *Smith v Doe*, which upheld a much more limited, first generation registration statute. In 2003, the United States Supreme Court rejected an Ex Post Facto challenge to Alaska's sex offender registry stating the act imposed "no physical restraint[.]" *Smith*, 538 US at 100. Since then, Michigan's SORA has transformed from a registry similar to what was at issue in *Smith* into what scholars call a super registry. Catherine L. Carpenter, *The Evolution of Unconstitutionality in Sex Offender Registration Laws*, 63 Hastings L Rev 101 (2011).

While the United States Supreme Court has not yet ruled on the constitutionality of such an expansive registry, many lower courts have found expansive registries similar to Michigan are unconstitutional. *See e.g. Does #1-5, surpa*; *United States v Juvenile Male*, 590 F3d 924, 932 (CA 9, 2009), *vacated as moot*, 131 S Ct 2860 (2011); *Commonwealth v Muniz*, 640 Pa 699; 164 A3d 1189 (2017), *cert den Pennsylvania v Muniz*, 138 S Ct 925; 200 L Ed 2d 213 (2018); *Doe v State*, 167 NH 382; 111 A3d 1077 (2015); *State v Williams*, 129 Ohio St 3d 344; 952 NE 2d 1108 (Ohio 2011); *State v Letalien*, 985 A2d 4 (Me 2009); *Starkey v Oklahoma Dep't of Corr*, 305 P3d 1004 (Okla 2013); *Commonwealth v Baker*, 295 SW3d 437 (Ky 2009); *State v Pollard,* 908 NE2d 1145, 1147-1148 (Ind 2009); *Doe v State*, 189 P3d 999 (Alaska 2008); *Doe v Dep't of Pub. Safety and Corr. Servs.*, 430 Md 535; 62 A3d 123 (Md Ct App 2013).

The Sixth Circuit recently held that Michigan's SORA is punishment, and that retroactive application of SORA violates the Ex Post Facto clause. *Does* #1-5, 834 F3d at 705. The Sixth Circuit differentiated SORA from the registry at issue in *Smith v Doe*:

> A regulatory regime that severely restricts where people can live, work, and "loiter," that categorizes them into tiers ostensibly corresponding to present dangerousness without any individualized assessment thereof, and that requires time-consuming and cumbersome in-person reporting, all supported by—at best—scant evidence that such restrictions serve the professed purpose of keeping Michigan communities safe, is something altogether different from and more troubling than Alaska's first-generation registry law. SORA brands registrants as moral lepers solely on the basis of a prior conviction. It consigns them to years, if not a lifetime, of existence on the margins…It directly regulates where registrants may go in their daily lives and compels them to

> interrupt those lives with great frequency in order to appear in person before law enforcement to report even minor changes to their information. We conclude that Michigan's SORA imposes punishment. [*Id.*]

The Supreme Court of Ohio traced amendments to its sex offender registry, which were similar to Michigan's series of amendments, and found that while the registry was not initially intended as punishment, the amendments transformed the statute in punishment and violated the Ex Post Facto clause. *Williams*, 129 Ohio St 3d at 350. The transformative amendments included: the permanency of the registration, the demanding registration duties, in-person reporting, expanded community notification, residency restrictions and the resulting stigma, ostracism and harassment of registrants, all of which applied without any individualized assessment of risk. *Id.* at 347-349. All the changes in the aggregate made the registry punitive. *Id.* at 349.

The same reasoning applies to Michigan's SORA. The immediate in-person reporting requirements alone may not violate the Ex Post Facto Clause. The annual fee alone may not violate the Ex Post Facto Clause. But the geographic restrictions, immediate in-person reporting requirements, police monitoring, and the public branding of registrants by dissemination of their identifying information regardless of their likelihood of reoffending has a cumulative effect that is punitive. See *Does #1-5*, 834 F3d at 705.[6]

B. SORA's Accumulative Effect is Punitive.

A court must examine whether "the statutory scheme is so punitive either in purpose or effect as to negate the State's intention to deem it civil." *Kansas v Hendricks,* 521 US 346, 361; 117 S

[6] The Michigan Court of Appeals, relying on *Smith v Doe*, found that SORA's requirement that registrants report their phone numbers and email addresses was not an Ex Post Facto violation. *People v Patton*, __Mich App__ ; __ NW2d __ (2018) (Docket No. 341105). Mr. Patton, unlike Mr. Betts, was convicted of a listed offense once SORA was in effect. Unlike Mr. Betts who is challenging the registry as a whole, Mr. Patton limited his challenge to the reporting requirements in MCL 28.727(1)(h) and (i). *Patton*, __ Mich App at; slip op at 8. So, while Mr. Betts contends that *Patton* was wrongly decided, his case is nonetheless distinguishable.

Ct 2072; 138 L Ed 2d 501 (1997) (internal quotations and formatting omitted); *People v Earl*, 495 Mich 33, 43; 845 NW2d 721 (2014).[7] To determine if the effects of a statute are punitive, courts look to seven factors outlined in *Kennedy v Mendoza-Martinez*, 372 US 144, 168-169; 83 S Ct 554; 9 L Ed 2d 644 (1963):

> Whether the sanction involves an affirmative disability or restraint, whether it has historically been regarded as a punishment, whether it comes into play only a finding of scienter, whether its operation will promote the traditional aims of punishment—retribution and deterrence, whether the behavior to which it applies is already a crime, whether an alternative purpose to which it may rationally be connected is assignable for it, and whether it appears excessive in relation to the alternative purpose assigned.

The United States Supreme Court concluded that the most relevant factors in examining sex offender registry laws are: affirmative disability or restraint, history and tradition, traditional aims of punishment, rational relation to a non-punitive purpose, and excessiveness. *Smith*, 538 US at 97. These factors are addressed below.

1. **SORA's multiple requirements and obligations, including immediate in-person reporting requirements and geographic restrictions on residency, work, and travel, create an affirmative disability and restraint.**

This factor considers how the effects of the Act are felt by those subject to it. "If the disability or restraint is minor and indirect, its effects are unlikely to be punitive." *Smith*, 538 US at 100. The *Smith* Court reasoned that the 2002 Alaska SORA did not impose a disability or restraint, primarily because there was no restriction of movement: "the Act does not restrain activities sex offenders may pursue but leaves them free to change jobs or residences." *Smith*, 538 US at 100. The Court noted there was no evidence that Alaska's SORA "led to substantial occupational or housing disadvantages for former sex offenders that would not have otherwise occurred through the use of routine background checks" and registrants "are free to move where they wish and to live and work

[7] Although the legislative history of SORA indicates there may be reason to doubt the legislative intent was truly civil, given that the statute contains an express provision claiming a non-punitive intent, Mr. Betts does not argue here that the Legislature's professed intent was punitive.

as other citizens, with no supervision." *Id.* at 100-101. There was no disability imposed as a result of reporting requirements, because registrants did not have to report in person. *Id.* at 101.

In contrast, Michigan's SORA requires and prohibits much more than the Alaska registry at issue in *Smith*, as the below table shows. The Michigan Court of Appeals recognized that the student safety zones and the onerous in-person reporting requirements differentiated SORA from the statute at issue in *Smith* and that SORA did "amount to an affirmative disability or restraint." *People v Tucker*, 213 Mich App 645, 668-672; 879 NW2d 906 (2015).

Alaska Registry at issue in *Smith v Doe*	**Michigan SORA**
No limitations on movement	Barred from "loitering" within 1,000 feet of a school
No limitations on work; no evidence of occupational disadvantage	Barred from working within 1,000 feet of a school; evidence of severe occupational consequences
No limitations on housing; no evidence of housing disadvantages	Barred from living within 1,000 feet of a school; evidence of severe housing consequences
No in-person reporting	Extensive immediate in-person reporting requirements
No state assertion of dangerousness	Classification into tiers that appear to reflect dangerousness despite lack of individualized assessment of dangerousness
No limitations on travel	Must report travel in person in advance
No "submit a tip" function	Encourages public vigilantism via "submit a tip" function on sex offender registry website
No fees	$50 annual fee

Mr. Betts, like all registrants, is not free to move, live, or work as other citizens. Mr. Betts is prohibited from living, working, or loitering within 1,000 feet of a school. MCL 28.734; MCL 28.735. In many urban areas, this may result in a registrant being barred from living or working in most of the city. *Does #1-5*, 834 F3d at 702-703 (portraying a map of the city of Grand Rapids, MI showing the portions of the city off-limits to registrants). The Sixth Circuit described SORA's in-person reporting requirements and student safety zones as "direct restraints on personal conduct."

Does #1-5, 834 F3d at 703. As Mr. Betts experienced, inability or failure to comply with these restraints can result in imprisonment. MCL 28.729.

Other states have recognized the disability and restraint imposed by residency restrictions. The Supreme Court of Kentucky noted that it was "difficult to imagine that being prohibited from residing within certain areas does not qualify as an affirmative disability or restraint." *Baker*, 295 SW3d at 445. And Kentucky's residency restrictions did not include limits on where registrants can loiter or work, like those in place under Michigan's SORA. *Id.* at 440-441. The Supreme Court of Indiana found an Ex Post Facto violation when a defendant, who had been convicted in 1997 for a sex offense, was charged with violating Indiana's residency restriction statute. *Pollard,* 908 NE2d at 1147-1148. The court held that "[t]he disability or restraint imposed by the residency restriction statute is neither minor nor indirect." *Id.* at 1150.

Michigan's SORA also includes reporting requirements, both immediate in-person reporting for numerous life events, and quarterly in-person reporting for Tier III registrants like Mr. Betts. MCL 28.725; MCL 28.725a. These in-person reporting requirements were not present in the Alaska scheme at issue in *Smith*, and the lack of in-person reporting was one of the reasons the Court found there was no disability or restraint. *Smith*, 538 US at 101.

Other jurisdictions have recognized the disability and restraint imposed by in-person reporting requirements.

The Pennsylvania Supreme Court found that the state's in-person reporting requirements "to be a direct restraint," and that the existence of the in-person reporting requirements was an important distinction from the registry at issue in *Smith v Doe*. *Muniz*, 640 Pa at 735-736

The Oklahoma Supreme Court, in finding that Oklahoma's SORA violated the Ex Post Facto Clause, held that "the affirmative 'in person' registration and verification requirements alone

cannot be said to be 'minor and indirect' especially when failure to comply is a felony." *Starkey*, 305 P3d at 1022.

The Supreme Court of Maine held similarly: "[Q]uarterly, in-person verification of identity and location of home, school, and employment at a local police station, including fingerprinting and the submission of a photograph, for the remainder of one's life, is undoubtedly a form of significant supervision by the state . . . that is neither minor nor indirect." *Letalien*, 985 A2d at 18. "These provisions, which require lifetime registrants, under threat of prosecution, to physically appear at their local law enforcement agencies within five days of receiving a notice by mail, place substantial restrictions on the movements of lifetime registrants and may work an 'impractical impediment that amounts to an affirmative disability.'" *Id.*, quoting *Doe v District Attorney*, 932 A2d 552, 562 (Me 2009).

The New Hampshire Supreme noted that the frequent reporting and checks by law enforcement "exceed simply burdening or disadvantaging" the registrant. *Doe v State*, 167 NH at 405.

Considering the effect registration may have on a person's ability to obtain employment, the Court in *Smith* noted that employers could discover the same information that was on the public registry through a "routine background check." *Smith*, 538 US at 100. This is not true in Michigan. People without a criminal record can remain on the registry. For example, some individuals with convictions under the Holmes Youthful Trainee Act are required to register. MCL 28.722(b). Individuals who have had their convictions expunged are also required to register. MCL 28.722(b). The registry also brands people as dangerous sexual predators and encourages the public to monitor registrants in ways that a criminal record alone does not.

Mr. Betts told the trial court about his experience with the disabilities he experienced as a result of his registration. During a pretrial motion hearing on March 4, 2013, he told the court that he was precluded from buying a house that he wanted because it was within 1,000 feet of a school.

Appendix, 14a. He related that when he goes to Staples to make copies relative to this case, only male employees provide service to him, while women "have to go stand in the back." *Appendix*, 15a. He had his house broken into, and the perpetrators stated that they were somehow less culpable because he was a sex offender. *Appendix*, 15a. He also had his business destroyed in Indiana after his sex offender registration information was distributed to the public. *Appendix*, 15a. These experiences detail the punitive effect SORA, applied retroactively, has had on Mr. Betts.

SORA's myriad conditions and requirements, including in-person reporting requirements and restrictions on where residents can live, work, and loiter, impose affirmative disabilities and restraints.

2. SORA is similar to probation and parole and to the historical punishments of shaming and banishment.

In-person reporting requirements and law enforcement monitoring imposed by SORA strongly resemble probation and parole. The Alaska Supreme Court, in a decision post-*Smith*, held that Alaska's updated registry violated the Ex Post Facto Clause, in part because its "registration reporting provisions are comparable to supervised release or parole." *Doe v State*, 189 P3d at 1019. The United States Supreme Court had previously rejected this argument because unlike parolees, registrants under Alaska's 2002 registry were "free to move where they wish and live and work as other citizens, with no supervision." 538 US at 101. However, Mr. Betts is not free to move, live, or work where he wishes. And as his case proves, registrants are closely monitored by law enforcement for SORA compliance, to the point where law enforcement arrived at a restaurant to investigate his registration status. *Appendix*, 22a.

SORA imposes duties comparable to Michigan probation and parole. Like registrants, parolees and probationers, for the life of their supervision term, are given conditions that must be followed. See MCL 791.236; MCL 771.2. Like registrants, parolees and probationers must pay

supervision fees. See MCL 791.236a; MCL 771.1. Like registrants, probationers and parolees are subject to penalties for violating each term of probation or parole. MCL 791.236; MCL 771.1 et seq. Like registrants, parolees or probationers generally must report regularly in person. MCL 28.725; MCL 28.725a; *Does #1-5*, 834 F3d at 703. The Michigan Court of Appeals recognized that the in-person reporting requirements were similar to probation or parole. *Tucker*, 213 Mich App at 674. The Pennsylvania Supreme Court also likened registration to probation, given the mandatory requirements placed upon registrants. *Muniz*, 640 Pa at 738-740.

In several ways SORA is even more onerous than probation and parole. For example, probationary terms cannot exceed five years. MCL 771.2a. Parole terms are generally two years, but rarely, if ever exceed four years. MCL 791.234(7)(d); MDOC Policy Directive 06.05.104DD, https://www.michigan.gov/documents/corrections/06_05_104_Final_618816_7.pdf (accessed October 22, 2018). By contrast, SORA registration can last for a lifetime. Conditions for parole and probation are imposed based on an individualized assessment. MCL 791.236; MCL 771.2. SORA's requirements are based solely on the offense of conviction, with no room for individualization or a personalized risk assessment. The length of registration, coupled with uniform requirements and no individualization, make SORA harsher than probation and parole—two well established forms of punishment.

SORA is also comparable to the historical punishments of banishment and public shaming. Kari White, W*here Will They Go? Sex Offender Residency Restrictions as Modern-Day Banishment*, 59 Case W Res L Rev 161 (2008). The Sixth Circuit explained how SORA's student safety zones achieve social banishment by forcing registrants to "tailor much of the lives around these school zones...[creating] difficulty in finding a place where they may legally live or work. Some jobs that require traveling from jobsite to jobsite are rendered basically unavailable." *Does #1-5*, 834 F3d at 702. The Michigan

Court of Appeals also noted that "the restrictions imposed by the student safety zones have historically been regarded as punishment." *Tucker*, 213 Mich App at 673.

Because of SORA there are large swaths of the state where Mr. Betts cannot live, work, or loiter. He told the trial court about a house he wished to purchase, but was prohibited from buying because of SORA's student safety zones. *Appendix*, 14a. The Kentucky Supreme Court compared residency restrictions to banishment, holding: "[I]t does prevent the registrant from residing in large areas of the community. It also expels registrants from their own homes." *Baker,* 295 SW3d at 444. The court defined banishment as "'punishment inflicted upon criminals by compelling them to quit a city, place, or country, for a specified period of time, or for life.'" *Id.* at 444, quoting *United States v Ju Toy*, 198 US 253, 269–70; 25 S Ct 644; 49 L Ed 1040 (1905).

Registration is also similar to the historical punishment of shaming. The Maryland Supreme Court held that disseminating personal information via the internet "is tantamount to the historical punishment of shaming." *Doe v Dep't of Pub Safety and Corr Servs*, 430 Md at 564. The Pennsylvania Supreme Court held likewise. *Muniz*, 640 Pa at 738-740. The New Hampshire Supreme Court noted that "the internet is our town square," and that registries are like the historical punishment of shaming, because "[p]lacing offenders' pictures and information online serves to notify the community, but also holds them out for others to shame and shun." *Doe v State*, 167 NH at 406.

Michigan's registry is not only publicly available online it also classifies registrants into tiers that purport to reflect their level of dangerousness, distinguishing it from the dissemination of accurate publicly available information concerning convictions at issue in *Smith*, 538 US at 98. SORA's tier classification system is not based on empirical research or an individualized assessment of dangerous or likelihood of reoffending. Despite having the ability to analyze recidivism among registrants, Michigan has never done so. *Does #1-5*, 834 F3d at704.

The Pennsylvania Supreme Court noted that the information its state's registry allowed on the internet went "beyond otherwise publicly accessible conviction data and includes: name, year of birth, residence address, school address, work address, photograph, physical description, vehicle license plate number and description of vehicles." *Muniz*, 640 Pa at 744. The legislative history of Michigan's SORA repeatedly indicates the public nature of the registry was a concern, and why SORA was not originally made public. See Part I.A., *supra*. Every amendment that broadened public accessibility to the registry or increased the amount of private information made public about a registrant faced opposition in the Legislature. See Part I.A., *supra*.

Mr. Betts told the trial court about how he has felt shamed and ostracized by virtue of his registration. Mr. Betts was also approached by officers in a public eating establishment, and the officer "stood there in Verdonis and looked at me he had pleasure broadcasting to the room my humiliation." *Appendix*, 22a-23a. He continued:

> The studies that are there from virtually all the things show that, in fact, it [registration] doesn't even lower recidivism. It doesn't do anything. It is an absolutely neutral thing other than the fact that it makes it so that a whole class of people are unemployable. A whole class of people are ostracized. A whole class of people have to live in hovels. I don't wanna live in a single wide trailer three miles outside of town because that's the only place people are gonna let me live. The more you poke a man the more likely he's gonna do something and, and I'm not. I swear I'm working really, really hard to do this. I've done it for almost 14 years now regardless of the outcome, truly. I'm still gonna stand up and do the best that I can but this is punishment. There is no question.
>
> Constitutionally, the evolution from the 12 points that they have to the 43 points that are listed on the sex offender registration and with serious impositions (sic) to my freedom with serious reductions into what I can do as a person. That's punishment. [*Appendix*, 22a-23a].

SORA mirrors established forms of punishment: probation, parole, banishment, and public shaming.

3. SORA advances the traditional aims of punishment.

The Sixth Circuit held that Michigan's "SORA advances all the traditional aims of punishment: incapacitation, retribution, and specific and general deterrence." *Does #1-5*, 834 F3d at 704. The court explained that SORA's "very goal is incapacitation insofar as it seeks to keep sex offenders away from opportunities to reoffend. It is retributive in that it looks back at the offense (and nothing else) in imposing its restrictions, and it marks registrants as ones who cannot be fully admitted into the community." *Id.*

Similarly, the Michigan Court of Appeals held that "the foremost purpose of the student safety zones is deterrence." *Tucker*, 213 Mich App at 676.

The Alaska Supreme Court reasoned post-*Smith* that its registry was retributive and served as a deterrent, based primarily on the lack of distinction between the risk posed by certain registrants:

> [A]pplication to a broad spectrum of crimes regardless of their inherent or comparative seriousness refutes the state's argument and suggest that such retributive and deterrent effects are not merely incidental to the statute's regulatory purpose. Every person convicted of a sex offense must provide the same information, and the state publishes that information in the same manner, whether the person was convicted of a class A misdemeanor or an unclassified felony. A SORA's only differentiation is in the frequency and duration of a person's duty to register and disclose. But at any given moment the registration list does not distinguish those individuals the state considers to pose a high risk to society from those it views as posing a low risk." [*Doe v State*, 189 P3d at 1013-1014.]

Other jurisdictions have reasoned similarly. The Oklahoma Supreme Court held that Oklahoma's SORA "promotes deterrence through the threat of negative consequences, for example, eviction, living restrictions, and humiliation." *Starkey*, 305 P3d at 1027. The court found the "retributive portion" most compelling, based on the lengthened registration periods, the lack of an individualized determination of risk, and the inability to petition for removal from the registry. *Id.* at 1027-1028. See also *Baker*, 295 SW3d at 444 (holding there was a retributive effect based on the lack of an "individualized determination of the dangerousness of a particular registrant.") The Pennsylvania Supreme Court reasoned that "the prospect of being labeled a sex offender

accompanied by registration requirements and the public dissemination of an offender's personal information over the internet has a deterrent effect." *Muniz*, 640 Pa at 742.

Retribution is advanced by SORA. The Pennsylvania Supreme Court reasoned its sex offender registry was much more retributive than the statute at issue in *Smith v Doe*, based on increases to the "length of registration . . . mandatory in-person reporting requirements, and . . . more private information . . . displayed online." *Muniz*, 640 Pa at 744. The New Hampshire Supreme Court reasoned that because offenders are required to register based only upon their offense, and "not on any individualized assessment of current risk or level of dangerousness," the registration law appeared like retribution. *Doe v State*, 184 NH at 407-408.

For these reasons, Michigan's sex offender registry is also punitive in nature. The 2011 amendments increased the reporting period for many individuals, including Mr. Betts. These extended periods are not related to negative conduct or a triggering event attributable to the registrant. SORA's tier designations and corresponding lengths of registration are not related to anything other than the underlying offense. There is no opportunity to show that the registrant is no longer a danger. There is no individualized risk assessment. There is no opportunity to petition for removal based on one's diminished risk. Mr. Betts has not committed a sex offense in 25 years, yet he is still publicly branded as a dangerous sex offender by SORA.

4. SORA's obligations, disabilities, and restraints are not rationally connected to its non-punitive purpose.

This Court must consider whether SORA has a rational connection to a nonpunitive purpose. *Smith*, 538 US at 102. Public safety is a legitimate legislative purpose. But SORA's restrictions are not rationally related to public safety, as SORA does not decrease recidivism.

As the Sixth Circuit concluded, "the record before us provides scant support for the position that SORA in fact accomplishes it professed goals." *Does #1-5*, 834 F3d at 704. While the United

States Supreme Court in *Smith* cited the "frightening and high" recidivism rate of sex offenders, the Sixth Circuit noted the "significant doubt cast by recent empirical studies" on this statement. *Id.* The Court's statement in *Smith* has been traced back to an unsubstantiated assertion in the mass market magazine *Psychology Today*. Ira & Tara Elmann,"*Frightening and High": The Supreme Court's Crucial Mistake About Sex Crime Statistics*, 30 Constitutional Commentary 495, 497-498 (2015). The Sixth Circuit also noted that sex offenders are "*less* likely to recidivate than other sorts of criminals," that registration has "no impact on recidivism," and that registration may "actually *increase* the risk of recidivism." *Id.* (emphasis in original).

Empirical research demonstrates that SORA is counterproductive to public safety because it exacerbates risk factors for recidivism such as employment and housing stability, and it impedes successful reintegration into society. J.J. Prescott & Johan E. Rockoff, *Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?* 54 JL & Econ 161 (2011). A study of Michigan's residency restrictions, funded by the Department of Justice, found that, if anything, student safety zones have increased rather than decreased recidivism. Beth M. Huebner, et al., *An Evaluation of Sex Offender Residency Restrictions in Michigan and Missouri* (2013), https://www.ncjrs.gov/pdffiles1/nij/grants/242952.pdf (accessed October 22, 2018).

SORA's counterproductivity may be because it is premised on misconceptions about people who have been convicted of sex offenses. Despite often repeated myths, sex offenders do not reoffend at higher rates than other groups of offenders. Rather, they recidivate at a much lower rates than those convicted of other types of crimes. Levenson & D'Amora, *Social Policies Designed to Prevent Sexual Violence: The Emperor's New Clothes?,* Criminal Justice Policy Review, vol. 18 no 2, 168-199 (2007); Caleb Durling, *Never Going Home: Does It Make Us Safer? Does It Make Sense? Sex Offenders, Residency Restrictions, and Reforming Risk Management Law*, 97 J Crim L & Criminology 317, 331 (2006).

Like all people who commit crimes, their risk of recidivism decreases over time, much quicker than the lengthy registration periods imposed by SORA. *Appendix*, 138a-153a.

Even though Mr. Betts has not committed a sex offense in 25 years, he is publicly labeled by the state as a Tier III offender and his ability to meet his basic needs, such as housing and employment, is severely restricted. SORA does not advance its professed non-punitive purpose.

5. SORA is excessive in relation to its purported non-punitive purpose.

The Supreme Court in *Smith* held that Alaska's first generation sex offender registry was not "excessive in relation to its regulatory purpose." *Smith*, 538 US at 103. In analyzing Michigan's super registry the Sixth Circuit came to a different conclusion:

> [W]hile the statute's efficacy is at best unclear, its negative effects are plain on the law's face….SORA puts significant restrictions on where registrants can live, work, and "loiter," but the parties point to no evidence in the record that the difficulties the statute imposes on registrants are counterbalanced by any positive effects….The requirement that registrants make frequent, in-person appearances before law enforcement, moreover, appears to have no relationship to public safety at all. The punitive effects of these blanket restrictions thus far exceed even a generous assessment of their salutary effects. [*Does #1-5*, 834 F3d at 705.]

This Court should reach the same conclusion.

Several jurisdictions have found registries to be excessive, mainly because the registries did not include an individualized assessment of risk.

The Supreme Court of Kentucky held that its state's residency restrictions were excessive, based primarily on the lack of an "individualized assessment as to whether a particular offender is a threat to public safety." *Baker*, 295 SW3d at 446. The court noted the regulations were "more onerous" than those at issue in *Smith*. *Id.* Michigan's SORA is even more restrictive than that of Kentucky—not only are registrants barred from living within 1,000 feet of a school, they cannot work or "loiter" there.

The Supreme Court of Oklahoma detailed its state's SORA obligations that were excessive: a longer registration period than originally imposed; the elimination of the ability to petition for removal; in-person reporting; public dissemination of personal information and the lack of an individualized determination of risk. *Starkey,* 305 3Pd at 1029. *See also Doe v State*, 189 P3d at 1016-1017 (holding for similar reasons that "the statute's chosen means are excessive in relation to the statute's purpose"). SORA possess all the same features that rendered Oklahoma's registry excessive.

The Indiana Supreme Court specifically addressed residency restrictions as being excessive: "The statute does not consider the seriousness of the crime. . . . Restricting the residence of offenders based on conduct that may have nothing to do with crimes against children, and without considering whether a particular offender is a danger to the general public, the statute exceeds its non-punitive purposes." *Pollard*, 908 NE2d at 1153.

The New Hampshire Supreme Court found its registry's excessive, based primarily on the fact that most offenders had to register for their entire lives, "without regard to whether they pose a current risk to the public." *Doe v State*, 167 NH at 410.

Michigan's SORA requirements are similarly excessive. There is no individualized assessment to determine length of registration, whether student safety zones should apply, or if in-person reporting is necessary. These extreme requirements are imposed with absolutely no showing of particularized risk. There is no mechanism for rebutting the registration requirements or for petitioning for removal for most offenders. See MCL 28.728c. Mr. Betts has gone 25 years without committing another sex offense, demonstrating that he is no longer a sexual danger to the public. Requiring Mr. Betts to register as a sex offender is excessive.

Because of its lack of individualization and most registrants' inability to petition for removal, SORA is excessive in relation to its professed regulatory purpose.

C. The 2011 amendments are not severable, and therefore SORA cannot be applied to people required to register prior to 2011.

In 2011, the Legislature completely rewrote SORA retroactively imposing the tier based classification system and imposing numerous immediate in-person reporting requirements. Key definitional terms, used throughout SORA and triggering its obligations, were added and rewritten. 2011 PA 17; See Part I.A., *supra*. The 2011 amendments cannot be excised and still leave a functioning statute. If tier language added in 2011 was removed, the statute would not specify who has to register, for how long, and at what intervals.

There is a general preference for severability over deeming an entire statute unconstitutional. *Blank v Dep't of Corr*, 462 Mich 103, 122; 611 NW2d 530 (2000); MCL 8.5. This Court uses a two-step process to determine whether an unconstitutional portion of a statute can be severed: "first, whether the Legislature expressed that the provisions at issue were not to be severed from the remainder of the act. If it did not, then . . . whether the unconstitutional portions are so entangled with the others that they cannot be removed without adversely affecting the operation of the act." *Blank*, 462 Mich at 123.

As to the first step, SORA does not include a severability clause, absent MCL 28.728(8), which requires the Michigan State Police to remove information from the public registry if any court determines the public nature of the registry is unconstitutional.

As to the second step, if this Court found the 2011 amendments alone to be unconstitutional punishment, removing those amendments would not leave a functioning statute. The remaining statute would be an unintelligible series of procedural provisions referencing excised portions. Absent the 2011 amendments, SORA would be an unenforceable law, incomprehensible to law enforcement and registrants. The statute would simply be inoperable. Therefore, severability

is not possible. The only way to remedy the Ex Post Facto violation is to remove Mr. Betts from the registry.[8]

Conclusion

The *Kennedy* factors lead to the inescapable conclusion that SORA is punishment. If SORA is punishment, it necessarily violates the Ex Post Facto Clause and cannot be retroactively applied to Mr. Betts. This Court should hold, in accordance with the high courts of Pennsylvania, New Hampshire, Alaska, Indiana, Kentucky, Maine, Maryland, Ohio, and Oklahoma and the Ninth and Sixth Circuit Courts, that Michigan's registry is unconstitutional Ex Post Facto punishment. The burden in Michigan of increased in-person reporting requirements, geographic restrictions, longer registration periods, increased fees, the public nature of the registry, and no mechanism to petition for removal from the registry meet the "clearest proof" test of *Smith v Doe, supra.*

[8] If this Court grants leave to appeal, Mr. Betts welcomes the opportunity to brief the severability issue further.

II. Retroactive imposition of SORA on Mr. Betts violates his right to due process.

Issue Preservation

Mr. Betts challenged the application of SORA to him on due process grounds in the trial court. *Appendix*, 24a.

Standard of Review

This Court reviews constitutional issues de novo. *People v Hall*, 499 Mich 446, 452; 884 NW2d 561 (2016).

Discussion

Since SORA was not in effect at the time Mr. Betts pled guilty, he was denied fair notice of a direct and automatic consequence of his plea. Had he known that he would be required to register as a sex offender, he would not have pled guilty. *Appendix*, 154a. Because Mr. Betts was not advised that SORA would apply to him before his plea, he was denied fair warning of the consequences of his plea. *Hall*, 499 Mich at 461. His plea was premised on the advisement that the only direct consequences would be a felony conviction and a potential prison sentence.

Due Process prevents disruption of settled expectations and protects against retroactive legislation as a "means of retribution against unpopular groups or individuals." *Landgraf v USI Film Products*, 511 US 244, 265-66; 114 S Ct 1483; 128 L Ed 2d 229 (1994). "[W]hen addressing ex post facto-type due process concerns, questions of notice, foreseeability, and fair warning are paramount." *United States v Barton*, 455 F3d 649, 654-55 (CA 6, 2006).

The United States Supreme Court has recognized that criminal defendants must be informed of certain and severe consequences that flow from criminal convictions before entering a plea.

Padilla v Kentucky, 559 US 356, 365–66; 130 S Ct 1473, 1481 (2010).[9] This Court has explained that a defendant cannot knowingly waive his Constitutional right to a trial unless he is fully aware of all the direct consequences of his plea. *People v Cole*, 491 Mich 325, 332-33, 338; 817 NW2d 497 (2012) (holding that trial courts are required to inform a defendant if he or she would be subject to lifetime electronic monitoring). SORA is no less of a direct and automatic consequence than lifetime electronic monitoring.

Sex offender registration under SORA, like deportation or electronic monitoring, is a "severe penalty" that is "intimately related to the criminal process." *Padilla*, 559 US at 365. For these reasons, this Court has held that sex offender registration is a direct consequence of a plea to a listed offense. *People v Fonville*, 291 Mich App 363, 394; 804 NW2d 878 (2011). In *People v Temelkoski*, examining a Due Process challenge to the retroactive application of SORA, this Court wrote, "when retroactive application of a statute disturbs settled expectations based on the state of the law upon which a party relied at the time an action was taken such that 'manifest injustice' would result, the Due Process Clause prohibits retroactive application of the law." *People v Temelkoski*, 501 Mich 960; 905 NW2d 593 (2018), *quoting Jideonwo v Immigration & Naturalization Serv.*, 224 F3d 692, 700 n 7 (CA 7, 2000).

Applying the same reasoning, the United States Supreme Court has explained the dangers of retroactively applying changes in the immigration consequences of a criminal conviction: because defendants "rely[] upon settled practice, the advice of counsel, and perhaps even the assurance in open court" regarding the consequences of a plea, the "potential for unfairness in the retroactive application … is significant and manifest." *INS v St Cyr*, 533 US 289, 323; 121 S Ct 2271; 150 L Ed 2d 347 (2001). Once a plea is entered "it would surely be contrary to familiar considerations of fair

[9] The United States Supreme Court's ruling in *Padilla* does not have retroactive effect with respect to ineffective assistance of counsel claims concerning failure to advise regarding the immigration consequences of a conviction. *Chaidez v US*, 568 US 342, 344; 133 S Ct 1103; 185 LEd2d 149 (2013).

notice, reasonable reliance, and settled expectations" to impose more severe consequences than those understood by the defendant at the time of the plea. *Id.*

By retroactively imposing SORA on Mr. Betts, the state upset his settled expectations and failed to provide him with fair notice of a direct and automatic consequence of his plea, resulting in a manifest injustice. It is fundamentally unfair to require Mr. Betts to be subject to SORA when no notice of this consequence was given at the time of his plea. Retroactive application of SORA upon Mr. Betts violates Due Process.

SUMMARY AND RELIEF

WHEREFORE, for the foregoing reasons, Mr. Betts asks that this Honorable Court grant leave, vacate his conviction, remand to the trial court with instructions to remove Mr. Betts from the sex offender registry, or any other relief which it deems appropriate.

Respectfully submitted,

STATE APPELLATE DEFENDER OFFICE

BY: /s/ Jessica Zimbelman
JESSICA ZIMBELMAN (P72042)
Assistant Defender
200 North Washington
Suite 250
Lansing, MI 48913
(517) 334-6069

SOFIA NELSON (P77960)
Assistant Defender

Dated: October 23, 2018