

**Sex Offender Registration Law Update #17 & #18  
October 23, 2008**

**1. ACLU v. Masto, 2:08-cv-00822-JCM-PAL (D. Nev., Oct. 7, 2008)**

- **Retroactivity**

The District Court granted a permanent injunction prohibiting the retroactive application of the sex offender registration laws passed in Nevada in 2007, concluding that they were punitive in nature and therefore violated the Ex Post Facto clause of the U.S. Constitution.

**2. State v. Ferguson, 2008 Ohio LEXIS 2589 (Oct. 1, 2008)**

- **Ex Post Facto**

In a 4-3 decision, the Ohio Supreme Court found that the 2003 amendments to their sex offender registration scheme were not punitive and, therefore, did not violate the *Ex Post Facto* clause of the U.S. Constitution or the Retroactivity Clause of the Ohio Constitution. The majority did not address the “intent-effects” test of Kennedy v. Mendoza-Martina, 372 U.S. 144 (1963), which is the case often applied in ex post facto analysis.

**3. State v. Anderson, 2008 Wash. App. LEXIS 2386 (Sept. 30, 2008)**

- **Residence—Transient Employee**

The defendant had a residence in Washington State but left to travel the country for a number of months (as a tattoo show artist)—intending to return to reside in Washington. He failed to comply with his sex offender registration requirements while on the road. He was properly convicted of failure to register, as he was still required to register as a sex offender based on his Washington “residence”.

**4. Doe v. Shurtleff, 2008 U.S. Dist. LEXIS 73787 (D. Utah, Sept. 25, 2008)**

- **Internet Identifiers**

The District Court granted a permanent injunction prohibiting the State of Utah from gathering the internet identifiers of registered sex offenders. The court noted that, in order to avoid First Amendment issues, there would have to be appropriate protective safeguards implemented in the legislation.

(summary continues on page 2)

5. State v. Haynes, 2008 Mich. App. LEXIS 1869 (Sept. 23, 2008)

- **Bestiality—Not an Offense Requiring Registration**

Where Defendant was convicted of bestiality, he could not be required to register as a sex offender. He was convicted under a “crimes against nature” style offense which only required registration if “the victim is an individual less than 18 years of age”. Here, the victim sheep was not an “individual” and, therefore, no registration was required.