

**Sex Offender Registration Law Update #31  
February 18, 2010**

**1. Rhode Island v. Morris, 2010 R.I. Super. LEXIS 7 (Jan. 11, 2010)**

- **Federal Conviction**
- **State Registration Requirement**

Morris was convicted of a violation of the Mann Act (18 U.S.C. §2423) and argued that his conviction did not subject him to Rhode Island's sex offender registration requirements. In deciding this pretrial motion to dismiss, the court found that Morris' conviction was "substantially the equivalent" of registerable Rhode Island offenses.

**2. U.S. v. Guzman, 2010 U.S. App. LEXIS 2009**

- **Commerce Clause**
- **Necessary and Proper Clause**
- **42 U.S.C. §16913**

This consolidated appeal out of the Northern District of New York (brining together the *Hall* and *Guzman* cases) resulted in a reversal of the District Court's original decisions. Utilizing the Necessary and Proper Clause, the Second Circuit found that there was a constitutional basis for enacting SORNA's registration requirement (42 U.S.C. §16913).

**3. Maine v. Letalien, 2009 Me. LEXIS 133 (Dec. 22, 2009)**

- **Ex Post Facto**

Held that Maine's sex offender registration and notification laws impose an ex post facto punishment as to offenders sentenced before 1999 and who thereafter where made subject to the more burdensome amendments which followed the law's passage in 1999. The court made the decision based on the Maine and U.S. Constitutions, and found that the law was punitive, rather than civil and regulatory. There is a thorough analysis of the *Mendoza-Martinez* factors and a distinguishing from the *Smith v. Doe* decision.

**4. U.S. v. Cavanaugh, 2009 U.S. Dist. LEXIS 123114 (D. N.D. Dec. 18, 2009)**

- **Uncounseled Tribal Court Conviction**
- **Cannot be used to prove an element of a Federal Crime**

In this recidivist domestic violence prosecution, the government sought to admit prior domestic assault convictions which occurred in tribal court, where the defendant was uncounseled. The court found that admission to violate Cavanaugh's right to counsel and due process under the

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U.S. Constitution. The right to court-appointed counsel does not apply in tribal courts. The Court here held that “tribal convictions introduced in a federal court to prove an essential element of a federal crime must be in compliance with the U.S. Constitution.” This opinion might have an impact on how federal and state failure to register prosecutions are handled when the underlying offense is a tribal court conviction.

**5. Ex Parte Scott, 2009 Tex. App. LEXIS 9653 (Dec. 17, 2009)**

- **Substantive Due Process**

Scott challenged his lifetime registration requirement on the grounds that it unreasonably infringes on his substantive due process ‘right’ to ‘rebuild his dignity’. In a case of first impression in Texas, the court discussed the issue in detail, and rejected his argument.

**6. Branch v. Indiana, 2009 Ind. App. LEXIS 2659 (Dec. 17, 2009)**

- **Homeless Offender**

Branch moved from Illinois to Indiana, and registered as required upon his arrival. He resided at a homeless shelter from December 1, 2008 to December 11, 2008. He never stayed in one place for more than four consecutive days and did not report that he had moved out of the shelter. About a month later, he was charged with failure to register. The court held that he was required to report a change in his principal residence address, even if he did not have another address that he was moving to, and upheld his conviction.

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