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Opinion

Supreme Court of Missouri

Case Style: John Doe, Appellant v. Honorable Matt Blunt, et al., Respondents.

Case Number: SC87786

Handdown Date: 06/12/2007

Appeal From: Circuit Court of St. Louis County, Hon. Thea A. Sherry

Counsel for Appellant: Brian L. Harvell and Paul H. Schramm

Counsel for Respondent: Michael Pritchett, Bart A. Matanic, Shawn R. McCall, R. David Arthur II

Opinion Summary:

This summary is not part of the opinion of the Court. It has been prepared by the Communications Counsel for the convenience of the reader. It has been neither reviewed nor approved by the Supreme Court and should not be quoted or cited. The opinion of the Court, which may be quoted, follows the summary.

John Doe pleaded guilty to the public display of explicit sexual material in May 2004, three months before a law took effect requiring those convicted of such a charge to register as a sex offender pursuant to section 589.400.1(2), RSMo Supp. 2005. When Doe failed to register, he was charged with violating probation. He sought a judgment declaring he was not subject to the new registration requirement. The trial court overruled Doe's motion for summary judgment. He appeals.

REVERSED. JUDGMENT ENTERED FOR DOE.

Court en banc holds: When it entered its judgment, the trial court did not have the benefit of *Doe v. Phillips*, 194 S.W.3d 833 (Mo. banc 2006), in which this Court held that a law requiring an individual to register as a sex offender for an offense that occurred prior to the registration law's effective date was a retrospective law in violation of article I, section 13 of the state constitution. Here, because Doe had no obligation to register at the time he pleaded guilty, the constitution prohibits requiring him to register now under the new law.

Citation:

Opinion Author: PER CURIAM

Opinion Vote: REVERSED. JUDGMENT ENTERED FOR DOE. All concur.

Opinion:

This slip opinion is subject to modification until the Court has ruled on the parties' motions for

rehearing, if any, and will become final only after the Court issues its mandate. To see when the Court issues its mandate, please check the docket entries for the case on [Case.net](#).

Overview

Doe pleaded guilty to the public display of explicit sexual material in violation of section 573.060 in May 2004.(FN1) At the time Doe pleaded guilty, the duty of registering as a sex offender did not apply to this offense. In August 2004, the law changed so that those convicted of public display of explicit sexual material were required to register as a sex offender. *Section 589.400.1(2)*, RSMo Supp. 2005. Subsequently, a probation violation report was filed against Doe for failing to register.(FN2)

Doe filed this declaratory judgment action to determine his obligation to register as a sex offender. He argued he was not subject to the new registration requirement because to apply the new statute to him would violate the prohibition on laws retrospective in operation, Mo. Const. article I, section 13. Not having the benefit of this Court's opinion in *Doe v. Phillips*, 194 S.W.3d 833 (Mo. banc 2006), the trial court overruled Doe's motion for summary judgment. *Phillips* controls. The trial court judgment is reversed, and judgment is entered in favor of Doe. *Rule 84.14*.

Discussion

In *Phillips*, the Court determined that a law requiring registration as a sex offender for an offense that occurred prior to the registration law's effective date was retrospective in operation in violation of Mo. Const. article I, section 13. As the Court explained, a retrospective law is one that creates a new obligation, imposes a new duty, or attaches a new disability with respect to transactions or considerations already past. It must give to something already done a different effect from that which it had when it transpired. *Doe v. Phillips*, 194 S.W.3d 833, 850 (Mo. banc 2006). The obligation to register by its nature imposes a new duty or obligation. *Id.* at 852.

The same is true in this case. When he pleaded guilty, Doe had no obligation to register; his duty to register arose from a change in the law. Because the new law imposed a new duty, it is a retrospective law prohibited by Mo. Const. article I, section 13.

Conclusion

The trial court's judgment is reversed, and judgment is entered for Doe. *Rule 84.14*.

All concur.

Footnotes:

FN1. All statutory references are to RSMo 2000 unless otherwise specified.

FN2. The decision whether to revoke probation has been deferred pending resolution of this case. Because of the possibility of probation revocation, the issue of Doe's duty to register is not moot.

Separate Opinion:

None

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