No. 75228-6

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

–

JOHN DOE,

Appellant,

v.

STATE OF WASHINGTON,

Respondent.

Court of Appeals Case No. 75228-6-I
Appeal from the Superior Court of the
State of Washington for King County

PETITION FOR REVIEW

John Doe,
Appellant, pro se
Pacific, WA 98047
WashingtonVoices@gmail.com

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A. IDENTITY OF PETITIONER

Petitioner is John Doe, a registered sex offender in King County. Doe is representing himself, pro se, under a Superior Court approved pseudonym.

B. CITATION TO COURT OF APPEALS DECISION

John Doe seeks review of the Court of Appeals' unpublished opinion, *John Doe v. State of Washington,* No. 75228-6-I (May 22, 2017) (App. A), affirming the King County Superior Court's order granting the State of Washington's motion to dismiss. (App. B.) On May 24, 2017, Doe motioned the Court of Appeals to publish its decision in this case (App. C), however the Court denied the motion to publish. (App. D.)

C. ISSUES PRESENTED FOR REVIEW

The Washington State legislature passed Senate Bill 5154-2015, which the Governor signed into law on May 14, 2015. The bill amended RCW 9A.44.130(3), imposing for the first time a requirement that all registered sexual offenders (hereafter Registrant) in Washington State to provide three-weeks notification prior to traveling outside the Country. In the alternative, the statute allows a Registrant to travel outside the country without three-week's notice for "emergencies" or "routine" business travel, provided the Registrant appears in person to local law enforcement at least 24-hours before traveling, to provide written notification as to why it was "impracticable" to provide more notice.

The issues before the Court are as follows:

1. Is the travel notification requirement outline in RCW 9A.44.130(3) a first impression issue, heretofore not addressed by this Court? Secondarily, is the travel notification requirement beyond the scope of this Court's ruling in *Ward*[1], which has not been addressed in any prior ruling by this Court?
2. Does RCW 9A.44.130(3) impose an unconstitutional retroactive restraint to international travel by requiring a three-week waiting period prior to leaving the county?
3. Did the Court of Appeals use the correct level of review in this case, due to the right to travel internationally being protected by the Fifth Amendment?
4. Does the travel notification requirement constitute a search under the Fourth Amendment of the Unites States Constitution, and Article 1, Section 7 of the Washington State Constitution?
5. Is the alternative notification provision, allowing for reduced waiting period for "travel due to family or work emergencies, or for offenders who travel routinely across international borders for work-related purposes" unconstitutionally vague?
6. Can the State of Washington regulate behavior of a registrant who is temporarily out of the State complying with registration requirements in another jurisdiction?

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[1] *State v. Ward,* 123 Wn.2d 488, 496. 889 P.2d 1062 (1994)

7. Is the Court of Appeals' interpretation of *Steffel v. Thompson* in conflict with how the issue of standing is interpreted by the Federal Courts? Secondarily, did the court improperly dismiss the case for lack of standing because Doe had yet to travel outside the country?

D. STATEMENT OF CASE

Petitioner Doe pled guilty to two counts in violation of RCW 9.68A.090(1), gross misdemeanors, on June 17, 2011, was sentenced and required to register as a sexual offender under RCW 9A.44.130. Doe spent four months in the King County jail, two years' probation, and paid his court costs. The Superior Court released Doe from its jurisdiction on August 14, 2013, after completing his sentence and paying off fines and court costs. Upon release from confinement, Doe registered with the King County Sheriff's office and has maintained his registration in good standing as required by law.

Upon passage of Senate Bill 5154-2015 and signing by the Governor, Doe filed a challenge to the new travel notification and waiting requirements in Superior Court, prior to the law taking affect. [CP page 1][2] Doe also filed for a preliminary injunction to prevent the law from going into effect, however the court denied the motion. [CP@ 130] Doe took his preliminary injunction request to this Court seeking discretionary review, however the Court Commissioner denied Doe's motion for preliminary relief.

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[2] Reference to Clerk's Papers designated as [CP @ x], where x refers to the Clerk's Papers page number.

On a motion for summary judgement [CP @ 142] the Superior Court dismissed Doe's challenge, before he could bring his case to trial. [CP @ 261-262] Doe timely challenged the trial court's dismissal to the Court of Appeals, Division One, which affirmed the Superior Court's dismissal. [App. A] Subsequently, Doe motioned the Court of Appeals to publish its opinion in this case, which was denied. [App. D] Doe now makes a timely petition for review by this Court.

E. ARGUMENT

1. Courts are Invalidating Amendments to Registration Laws

This Court should take note that appellate and federal courts across the country are frequently invaliding new restrictive amendments to state registration laws, the latest being the recent U.S. Supreme Court ruling in *Packingham v. North Carolina* (No. 15-1194, June 19, 2017). In an 8-0 ruling the Court invalidated a Registrant's restriction to accessing social web sites on the internet. The majority opinion stated the law was too broad, not narrowly tailored, and failed to meet scrutiny:

> Even assuming that the statute is content neutral and thus subject to intermediate scrutiny, the provision is not """narrowly tailored to serve a significant governmental interest."""" *McCullen v. Coakley*, 573 U. S. ___, ___. .... It is also clear that "sexual abuse of a child is a most serious crime and an act repugnant to the moral instincts of a decent people," *Ashcroft v. Free Speech Coalition*, 535 U. S. 234, 244, and that a legislature "may pass valid laws to protect children" and other sexual assault victims, id., at 245. However, the assertion of a valid governmental interest "cannot, in every context, be insulated from all constitutional protections." Stanley v. Georgia, 394 U. S. 557, 563.

Packingham v. North Carolina, Id.

The ruling in *Packingham* is not an outlier decision, but in a line with many opinions where courts have recently begun to restrain state legislatures on what burdens they can retroactively impose on Registrants.

Another recent and significant ruling is the Sixth Circuits opinion in *Does v. Snyder*[3], where the circuit court ruled that retroactive application of Michigan's amendments to its sex offender registration scheme violated the ex post facto clause of the Constitution. Though the court did not rule on the general application of these amendments going forward, its opinion casts doubt on unconstitutionality of the provisions in question.

> "So, is SORA's actual effect punitive? Many states confronting similar laws have said "yes." See, e.g., Doe v. State, 111 A.3d 1077, 1100 (N.H. 2015); State v. Letalien, 985 A.2d 4, 26 (Me. 2009); Starkey v. Oklahoma Dep't of Corr., 305 P.3d 1004 (Okla. 2013); Commonwealth v. Baker, 295 S.W.3d 437 (Ky. 2009); Doe v. State, 189 P.3d 999, 1017 (Alaska 2008). And we agree. In reaching this conclusion, we are mindful that, as Smith makes clear, states are free to pass retroactive sex-offender registry laws and that those challenging an ostensibly non-punitive civil law must show by the "clearest proof" that the statute in fact inflicts punishment. But difficult is not the same as impossible. Nor should Smith be understood as writing a blank check to states to do whatever they please in this arena."

Doe urges this Court to take notice of high courts' in Alaska[4], Indiana[5], Maryland[6], New Hampshire[7] and Oklahoma[8], which have all ruled that some

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[3] U.S. Court of Appeal, Sixth Circuit, Nos. 15-1536/2346/2486.

[4] State v. John Doe A and John Doe B, # S-14486 – 2013, Alaska.

aspects of their State's sex offender registration statutes are sufficiently punitive that they may not be applied retroactively.

Federal District Judge Obert Cleland, United States District Court, E.D. Michigan, Southern Division, ruled parts of Michigan's Sex Offender Registry law was so vague that it was unconstitutional[9], including the requirement that offenders stay at least 1,000 feet from schools. Judge Cleland, in a 72-page ruling, struck down several reporting requirements of the 1994 law, which has been amended several times by state lawmakers to make sex offender registration requirements stricter.

Lastly, in a *Doe v. Miami-Dade County*[10], a case regarding residency restrictions, the federal court ruled the plaintiffs had a right to challenge the ex post facto application of the County's residency restrictions:

> "On appeal, the Plaintiffs argue that they pleaded sufficient facts to state a claim that the residency restriction is so punitive in effect as to violate the ex post facto clauses of the federal and Florida Constitutions. At this stage, we conclude that Doe #1 and Doe #3 have alleged plausible ex post facto challenges to the residency restriction. Therefore, we affirm in part, reverse in part, and remand for proceedings consistent with this opinion.."

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[5] State v. Hough, No. 64A05-1203-MI-113, 2012, Indiana.

[6] John Doe v. DPS and Correctional Services, Case No. 125 - 2013, Maryland.

[7] Doe v. State, Supreme Court Case 2013-496, New Hampshire.

[8] Starky v. Oklahoma DPS, SD- 109556, 2013, Oklahoma.

[9] Does v. Snyder, Case No. 12-11194, March 31, 2015, US District Court, E.D. Michigan, Southern Division.

[10] Doe v. Miami-Dade County, 15-14336 (11th Cir. 01/25/2017)

These are just a few examples of how state and federal courts are finally saying "no" to imposing further ex post facto regulatory restrictions on sex offenders. See Does briefing to the Superior Court for additional case law. [CP @ 35-55]

2. Issue of First Impression

The requirement on registrants to provide notice and wait three-weeks prior to traveling outside the county is an issue of first impression for any Washington State court. Prior to this case, all appellate decisions, from *Ward*,[11] *Taylor*,[12] *Meyer*,[13] *Enquist*,[14] and others, have all ruled that Washington State sex offender requirements imposed no prior restraint to any activity, and therefore was purely regulatory. It was precisely because there was no affirmative restraint to travel is why the statute was deemed regulatory.

The opinion of the Court of Appeals, for the first time in this state, ruled it was constitutional for the state to impose a retroactive prior restraint on an activity by a Registrant. In this case, the activity being restrained is traveling abroad, by requiring a three-week waiting period. Though unpublished, this ruling is significant and addresses an issue heretofore not ruled upon by this or

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[11] Washington v. Ward, 123 Wash. 2d 488, 869 P.2d 1062 (Wa. 03/17/1994)

[12] Washington v. Taylor, 67 Wash. App. 350, 835 P.2d 245 (Wa.App. 08/31/1992)

[13] In re Personal Restraint Petition of Meyer, 142 Wash.2d 608, 16 P.3d 563 (Wash. 01/04/2001)

[14] State of Washington v. Gerald Duaine Enquist, 256 P.3d 1277, 163 Wash.App. 41

any Washington State appellate court. Unpublished opinions may not be cited, however the reasoning the Court of Appeals used in this case will permeate to the lower courts in performing analysis of similar cases. It also provides tacit approval that any requirement imposed on a registrant is constitutional because registration is regulatory by nature.

This Court in *Ward* ruled that the simple act of registration was not punitive:

> "Registration alone imposes no significant additional burdens on offenders. The statute requires an offender to provide the local sheriff with eight pieces of information: name, address, date and place of birth, place of employment, crime for which convicted, date and place of conviction, aliases used, and Social Security number. In addition, the local sheriff must obtain two items: the offender's photograph and fingerprints. We note that at least one criminal justice agency routinely has all of this information on file at the time of an offender's conviction and sentencing. See RCW 10.97.030(1), (3). Thus, only if this information has changed since sentencing could registration require an offender to divulge information which is not already in the hands of the authorities
>
> We also find that the physical act of registration creates no affirmative disability or restraint. Collecting information about sex offenders in order to aid community law enforcement." Washington v. Ward, 123 Wash. 2d 488, 869 P.2d 1062 (Wa. 03/17/1994)

The Court of Appeals opinion stated: "*Doe fails to meaningfully distinguish from Enquist and Ward by explaining how the requirement to*

(Wash.App.Div.2 08/05/2011)

provide notice of international travel is more punitive than the sex offender registry generally in Ward, or the transient offender requirements in Enquist" Doe argued precisely that the amendment goes further than requirements of Ward, finally making the registration scheme punitive, for the right to travel abroad is protected by the Fifth Amendment.[15]

3. **Standard of Review Under the Due Process Clause**

The Court of Appeals dismissed all claims by ruling that the statute on its face was constitutional, stating Doe's "... *primary argument is that a rational basis review of his claim is inappropriate and that we must apply intermediate scrutiny, under which he argues that he would prevail. But because we conclude that Doe's facial and as applied claims do not meet the threshold requirements for review, we do not reach issues regarding the applicable level of scrutiny.*"[16] The Court seems to say that just because the generic sex offender scenario can meet the law's requirement means the law is constitutional, therefore the Court need not apply any level of scrutiny to the prohibitions. The Court is also saying that until Doe travels outside the country he does not have standing to challenge the statute.

The right to international travel is a liberty interest protected by the Fifth Amendment[17]. Doe alleges that the International Notification and Waiting Period provision of the statute violates the substantive due process guarantee of

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[15] Aptheker v. Sec'y of State, 378 U.S. 500, 505 (1964)

[16] Doe v. State, 75228-6-I (Wash.App.Div.1 05/22/2017, Footnote 3

the right to travel internationally because it is not rationally related to a legitimate government interest.

In the context of a constitutional adjudication of fundamental rights, such as the right to travel internationally, rational basis review is not an automatic rubber-stamp of Congressional or State acts. See, e.g., Romer v. Evans, 517 U.S. 600, 632 ("[E]ven in the ordinary equal protection case calling for the most deferential standards, we insist on knowing the classification adopted and the object to be obtained."); St. Joseph Abbey v. Castille, 712 F.3d 215, 223 (5th Cir. 2013) ("[A]lthough rational basis review places no affirmative evidentiary burden on the government, *plaintiffs may nonetheless negate a seemingly plausible basis for the law by adducing evidence of irrationality.*" (citing FCC v. Beach Commc'ns, Inc., 508 U.S. 307, 314-15 (1993)) (emphasis added)). In support of Doe's argument of irrationality, Doe intended to introduce evidence from witness testimony and other professional and government published documents, information that would have shown there is no nexus between the foreign travel by a Registrant and committing sex offenses, or with the intent of committing any offense at all.

The U. S. Supreme Court and the Ninth Circuit have "applied a more searching form of rational basis review" when a law displays animus or disregard toward a particular group of disadvantaged or politically unpopular people in connection with that group's exercise of a fundamental right.

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[17] Aptheker v. Sec'y of State, 378 U.S. 500, 505 (1964)

Lawrence v. Texas, 539 U.S. 558, 580 (2003) (O'Connor, J., concurring). See also United States v. Windsor, 133 S. Ct. 2675, 2692 (2013) (citing cases).

The Sixth Circuit in *Does v. Snyder* made the same claim, and took a close look at the statute precisely because of how hated Registrants are by the public:

> "We conclude that Michigan's SORA imposes punishment. And while many (certainly not all) sex offenses involve abominable, almost unspeakable, conduct that deserves severe legal penalties, punishment may never be retroactively imposed or increased. Indeed, 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 v. Snyder*, Id.

The question for this Court is, does the new travel notification provision violate a Registrant's Fifth Amendment right to travel.

4. Fourth Amendment and Article 1, Section 7 Implication

The travel notification requirement mandates a Registrant provide law enforcement with detail travel information to include the following:

> "The notice shall include the following information: (a) Name; (b) passport number and country; (c) destination; (d) itinerary details including departure and return dates; (e) means of travel; and (f) purpose of travel. If the offender subsequently cancels or postpones travel outside the United States, the offender must notify the county sheriff not later than three days after cancellation or postponement of the intended travel outside the United States or on the departure date provided in the notification, whichever is earlier." RCW 9A.44.130(3)

An itinerary can include very granular detail of where and exactly at

what time travel occurs. This information is not much different than if the State attached a GPS unit to a Registrant, something the U.S. Supreme Court ruled implicates the Fourth Amendment.

In a per curium decision, the U.S. Supreme over turned the North Carolina Supreme Court ruling upholding a law which attaches GPS units to Registrants, where the state court ruled it was constitutional for it was regulatory. In *Grady v. North Carolina*[18], the high court made clear that the Fourth Amendment protections extend into the civil regulatory arena. The case was returned to North Carolina to review the case under the Fourth Amendment protection.

The issue before this Court is, does the travel notification provision, the information a Registrant is mandated to provide to law enforcement, implicate the Fourth Amendment, and therefore Article I, Section 7 protections?

5. **Twenty-four Hour Notification Language Unconstitutionally Vague**

Is the alternative notification provision, allowing for reduced waiting period for "travel due to family or work emergencies, or for offenders who travel routinely across international borders for work-related purposes" unconstitutionally vague? A Registrant is allowed to travel providing less than three-week's notice, if he/she can justify the purpose of travel is due to "*emergencies*" or that he/she travels "*routinely across international borders for*

[18] Grady v. North Carolina, __ U.S. __, 135 S.Ct. 1368, 191 L.Ed.2d 459, 83 U.S.L.W. 4226, 25 Fla.L.Weekly Fed. S 181 (U.S. 03/30/2015)

work-related purposes". The statute does not define what constitutes an emergency or what is routine business travel.

A Registrant who wishes to travel less than three-weeks must report in person to his/her local country sheriff at least 24-hours before traveling. He/she must also provide written justification for why he/she was unable to provide three-week's notice.

The fact that a Registrant, a person who is not under any court or agency supervision, must report to law enforcement prior to leaving is similar to that of being on probation, where notification is subject to the acceptance of law enforcement. The issue before the Court is, are such requirements vague? Does this provision allow law enforcement to deny a Registrant the right to travel? Is there an implication that law enforcement has the right to tell a Registrant that he/she cannot travel? Any feedback by law enforcement regarding his/her notification will be taken seriously by a Registrant, fearing that not following law enforcement direction could lead to arrest.

The State argued "*The statute does not allow for arbitrary application because it allows the 24 hours' in-person notice when there is a family or work emergency (or routine business travel) that makes regular written notice impractical. Sheriffs and registered offenders can use that standard in evaluating whether to wait 21 days or to do 24 hours' in-person notice.*" [See Brief of Respondent, page 23]. The State says that law enforcement does have a right to evaluate whether or not the circumstances are appropriate to allow for a 24-hour notification. However, the statute does not provide critical

definitions, therefore leaving it to 39 county sheriffs to define what "routine" and "emergency" means.

In a sex offender residency restriction case, the U.S. Court of Appeals for the 4th Circuit struck down [Doe v. Cooper — Case No 16-6026, November 30, 2016] as unconstitutional under the First Amendment a residency restriction statute passed by the North Carolina legislature. In this case, the statute in question made it a Class H felony (punishable by "a presumptive term of imprisonment of 20 months) for sex offenders to "knowingly be" at any of the following locations:

> (1) On the premises of any place intended primarily for the use, care, or supervision of minors, including, but not limited to, schools, children's museums, child care centers, nurseries, and playgrounds.
> (2) Within 300 feet of any location intended primarily for the use, care, or supervision of minors when the place is located on premises that are not intended primarily for the use, care, or supervision of minors, including, but not limited to, places described in subdivision (1) . . . that are located in malls, shopping centers, or other property open to the general public. [Or]
> (3) At any place where minors gather for regularly scheduled educational, recreational, or social programs. NCGS 14-208.18(a).

The court held, first, that the provisions of subsection (3) were unconstitutionally vague; "neither an ordinary citizen nor a law enforcement officer could reasonably determine what activity was criminalized by subsection (a)(3). "The term "regular" means happening at fixed intervals. Even if a restricted sex offender or law enforcement officer knew precisely how often and where the "scheduled programs" took place, the statute provided no

principled standard at all for determining whether such programs are "regularly scheduled." Notably, subsection (a)(3) provided no examples to guide restricted sex offenders or law enforcement as to how frequently the programs would need to occur in order to be "regularly scheduled."

Subsection (a)(3)'s "where minors gather" language was also without defining standards. For example, subsection (a)(3) did not explain how many minors must gather at the place. Subsection (a)(3) also did not explain whether a place where mixed groups of minors and adults gather, such as a community college that has some high school students or a church with a congregation of adults and minors, would be considered a restricted zone under subsection (a)(3).

Additionally, the court found that subsection (a)(2) could not withstand "intermediate scrutiny" under the First Amendment:

6. **Regulates Out-of-State Behavior**

What should trouble this Court is the new travel and notification provision of RCW 9A.44.130(3) regulates conduct of a Registrant who is not within the boundaries of the State of Washington. For those registrants who are registered temporarily within the state, or who may be out of the state temporarily, they are required to provide travel notification to Washington local law enforcement, providing three-week's notice prior to leaving the country.

The State agrees that a Washington registrant who is out of the state abiding by the requirements of the other state, is still none-the-less required to provide notice to his Washington State Sheriff:

> "Doe's argument that he would be treated differently in other states makes no sense, where Doe remains a resident of Washington, subject to Washington's registration requirements. Contra Doe Br. 23-24. And while it may be an annoyance for Doe to provide notice of impending international travel from another state, that does not mean it is a constitutional violation." [See Brief of Respondent, Footnote 11]

Doe stated to the trial Court that he was not required to register in all states to which he travels. [CP @ 167]. Doe made the same claim to the Court of Appeals. [See Appellants Opening Brief, page 15]. This claim has gone unchallenged by the State. While Doe is in a State in which he is not required to register, it is unclear how the State of Washington has a claim on him and can regulate his conduct. This is an issue that should trouble this Court greatly, whether the State of Washington has the authority to regulate conduct of a Registrant once he is legally outside the State boundary.

7. <u>Court of Appeals Interpretation of Steffel v. Thompson</u>

The Court of Appeals dismissed Doe's as applied claim. "*His as-applied challenge is not ripe because Doe has not travelled or attempted to travel abroad under RCW 9A.44.130(3), therefore the facts necessary for review are undeveloped. We affirm the trial court's order dismissing Doe's complaint.*" [App. A, @ 1]. The Court of Appeals rejected Doe's claim that he has a right to bring a challenged based on <u>*Steffel v. Thompson*</u>[19], stating:

> "But in Steffel, protesters faced the imminent threat of state criminal prosecution for their hand billing outside a

[19] Steffel v. Thompson, 415 U.S. 452, 94 S. Ct. 1209, 39 L. Ed. 2d , 505 (1974)

> shopping center, which consequently deterred exercise of constitutionally protected speech. Doe has not attempted to travel in or out of compliance with RCW 9A.44.130(3), and he has not been threatened with prosecution for failure to comply with the provision. Because there is no imminent threat of state prosecution, this case is distinguishable from Steffel." Doe v. State of Washington, Id.

This interpretation is contrary to how the federal courts apply *Steffel*. For example, a very recent Fifth Circuit (July 22, 2014)[20] case dealt with a civil rights violation by sex offender Duarte, claiming the City of Lewisville prevented he and his family from living in the City due to a residency restriction ordinance. Even though Duarte was not actually threatened with prosecution, and had moved away, the Circuit Court reversed the District Court's dismissal for lack of standing and mootness. The Fifth Circuit stated "*Here, there is a genuine dispute whether the Duartes' inability to find a home in Lewisville is fairly traceable to the ordinance challenged*". The Fifth Circuit overruled the District Court's dismissal of Duarte's claim for lack of standing:

> "In this case, the district court erroneously granted summary judgment for lack of standing because it conflated the actual-injury inquiry for standing purposes with the underlying merits of the Duartes' constitutional claims. The district court concluded Duarte lacked standing because he resided in a motel room grandfathered under the ordinance, and had not yet been cited or prosecuted under the ordinance. But "it is not necessary that petitioner first expose himself to actual . . . prosecution to be entitled to challenge a statute that he claims deters the exercise of his constitutional rights." Steffel v. Thompson, 415 U.S. 452, 459 (1974). The Duartes' fears of liability are not "imaginary or speculative." Id. (internal quotation marks

[20] Duarte v. City of Lewisville, TX

> omitted). Instead, their fears are based on correspondence with the Sex Offender Registrar warning against purchasing or renting specific properties." Duarte v. City of Lewisville, TX, Id.

The Fifth Circuit reaffirmed that "*it is not necessary that a petitioner first expose himself to actual ... prosecution*" before he has standing to petition the Courts. The fear of being prosecuted is sufficient to give one standing. There is no ambiguity that the travel notification applies to Doe, that he would be subject to prosecution if he did not provide notification to local law enforcement prior to leaving the country.

Doe is in a Catch-22 situation, for the Appeals Court forecloses his challenge of the law until he shows international travel. On one hand, he must give three weeks' notice to travel for work, but because he has to give three-weeks' notice prior to travel he is unable to travel for work. Division One's interpretation of *Steffel v. Thompson* requires there to be "imminent threat of state prosecution" and therefore this case is distinguishable for there is no imminent threat to Doe. However, this is contrary to rulings in *Lujan v. Defenders of Wildlife* [504 U.S. 555, 560 (1992) and in *Duarte v. City of Lewisville* [TX [136 F.Supp.3d 752 (E.D. Tex. 2015)].

The Supreme Court has explained that "actual injury" for standing purposes means "an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not 'conjectural' or 'hypothetical.'" Lujan, 504 U.S. at 560 (citations omitted). In Lujan, the Court explained a key question is "whether the plaintiff is himself an object of the

[government] action (or forgone action) at issue. If he is, there is ordinarily little question that the action or inaction has caused him injury, and that a judgment preventing or requiring the action will redress it." Id. at 561–62.

The Fifth Circuit interprets *Steffel* differently than Division One.

"But "it is not necessary that petitioner first expose himself to actual . . . prosecution to be entitled to challenge a statute that he claims deters the exercise of his constitutional rights." Steffel v. Thompson, 415 U.S. 452, 459 (1974)." "But the Duartes need not show they were "legally foreclosed from purchasing or leasing residential premises due solely to the. . . City of Lewisville," as the district court apparently believed. Instead, they need only show that the ordinance treats them differently from other would-be renters or homebuyers making it "differentially more burdensome" for the Duartes to find a new place to live for standing purposes. See Time Warner Cable, 667 F.3d at 637 (quoting Minneapolis Star & Tribune Co. v. Minn. Comm'r of Revenue, 460 U.S. 575, 588 (1983))" Duarte, Id.

This Court should be concerned that the state courts may not be properly following or properly applying federal precedent when deciding state claims.

Doe claimed he wanted to travel while he was out-of-state visiting family. [CP @ 215] While Doe was in Arizona visiting, he wanted to travel to Nogales Mexico for the day to go shopping, but was unable to do so for he was unable to provide three weeks' notice to the King County Sheriff. It is true Doe has not traveled across the international border since the new law went into effect,

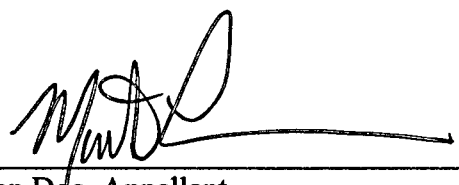
however it has prevented him from traveling outside the country due to the notification and waiting period requirement.

F. CONCLUSION

The issues raised by Doe include an issue of first impression, for the State of Washington is imposing for the first time a prior restraint to travel on all Registrants in this state. This alone should be sufficient for this Court to grant review. However, there are numerous constitutional claims Doe has raised that should also be of interest to this Court. Given the totality of issues raised, this Court should grant review.

Respectfully submitted,

Date: July 10, 2017.



John Doe, Appellant

APPENDIX A

John Doe v. State of Washington, No. 75228-6-I (May 22, 2017)

IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON

JOHN DOE, Appellant, v. STATE OF WASHINGTON, Respondent.	)	No. 75228-6-I
	)	DIVISION ONE
	)	UNPUBLISHED OPINION
	)	FILED: May 22, 2017

SPEARMAN, J. — Under RCW 9A.44.130(3), registered sex offenders must provide notice to their county sheriff before travelling abroad. John Doe is a registered sex offender. He has not yet travelled or attempted to travel abroad under RCW 9A.44.130(3), but he brings an action to declare the provision unconstitutional on its face and as applied to him. To succeed in his facial challenge, Doe must show that no set of circumstances exists in which the statute can be constitutionally applied. As to his as-applied challenge, Doe is entitled to review only if he can show the necessary facts are fully developed and the issues presented are primarily legal. Doe's facial challenge fails because RCW 9A.44.130(3) can be applied constitutionally. His as-applied challenge is not ripe because Doe has not travelled or attempted to travel abroad under RCW 9A.44.130(3), therefore the facts necessary for review are undeveloped. We affirm the trial court's order dismissing Doe's complaint.

FACTS

In 2011, John Doe pleaded guilty to two counts of communication with a minor for immoral purposes. As a result of his convictions, Doe must register as a sex offender until 2021.

Washington State recently amended its sex offender registration statute, RCW 9A.44.130.[1] The amended statute requires that all registered offenders intending to travel internationally give written notice of their trip to their local sheriff's office. Typically, offenders must give twenty-one days advance notice by certified mail. But for unexpected trips, emergencies, or routine trips for work-related purposes, offenders must submit written notice in person at least twenty-four hours before travelling with an explanation why advance notice was impractical. The statute also specifies the information that the offender must provide to the sheriff, who then passes the information to the U.S. Marshall:

> Any person required to register under this section who intends to travel outside the United States must provide, by certified mail, with return receipt requested, or in person, signed written notice of the plan to travel outside the country to the county sheriff of the county with whom the person is registered at least twenty-one days prior to travel. The notice shall include the following information: (a) Name; (b) passport number and country; (c) destination; (d) itinerary details including departure and return dates; (e) means of travel; and (f) purpose of travel. If the offender subsequently cancels or postpones travel outside the United States, the offender must notify the county sheriff not later than three days after cancellation or postponement of the intended travel outside the United States or on the departure date provided in the

[1] On May 14, 2015, the Governor signed Substitute Senate Bill 5154, which amended various elements of the sex offender registration system. SUBSTITUTE S.B. 5154, 64th Leg., Reg. Sess. (Wash 2015).

> notification, whichever is earlier. The county sheriff shall notify the United States marshals service as soon as practicable after receipt of the notification. In cases of unexpected travel due to family or work emergencies, or for offenders who travel routinely across international borders for work-related purposes, the notice must be submitted in person at least twenty-four hours prior to travel to the sheriff of the county where such offenders are registered with a written explanation of the circumstances that make compliance with this subsection (3) impracticable.

Doe is a licensed electrical engineer in several states, including Washington, Alaska, and British Columbia. Since his conviction in 2011, he has declined opportunities for international travel. He declined a short notice business trip to Canada due to the inconvenience of notifying the sheriff of the trip in person. While in Arizona, he wanted to go on an impromptu shopping trip across the border to Mexico, but didn't do so because it would have required in-person notice to the King County sheriff.

On May 18, 2015, John Doe filed a complaint for declaratory judgment and injunctive relief, alleging that the RCW 9A.44.130(3) notice requirement is unconstitutional. Doe's request for injunctive relief was denied, and the State moved for summary judgment.[2] Doe then amended his complaint. On May 16, 2016, the trial court granted summary judgment, dismissing Doe's complaint and ruling that RCW 9A.44.130 (3) is constitutional.

DISCUSSION

Doe argues that RCW 9A.44.130 (3) is unconstitutional under the Washington and United States Constitutions. He contends that it violates the

[2] Doe moved for discretionary review of the trial court's order denying his request for injunction. Commissioners of this court and of the Supreme Court denied his motions.

Fifth Amendment freedom to travel internationally, the right to privacy, procedural due process protections, and that it is void for vagueness. He also complains that it is an unlawful ex post facto punishment. Doe launches a facial attack on the constitutionality of RCW 9A.44.130(3), seeking a declaration that the provision is unenforceable. He also argues that RCW 9A.44.130(3) is unconstitutional as applied to him, even though he has not attempted to travel abroad since its enactment.

We review the constitutionality of a statute de novo. State v. Enquist, 163 Wn. App. 41, 45, 256 P.3d 1277 (2011). We presume that a statute is constitutional, and the party challenging it bears the burden of proving otherwise beyond a reasonable doubt. Didlake v. Washington State, 186 Wn. App. 417, 422–23, 345 P.3d 43, rev. denied, 184 Wn.2d 1009, 367 P.3d 667 (2015) (citing Morrison v. Dep't of Labor & Indus., 168 Wn. App. 269, 272, 277 P.3d 675 (2012)). To demonstrate that RCW 9A.44.130(3) is unconstitutional on its face, Doe must show that "no set of circumstances exists in which the statute, as currently written, can be constitutionally applied." City of Redmond v. Moore, 151 Wn.2d 664, 669, 91 P.3d 875 (2004) (citing In re Det. of Turay, 139 Wn.2d 379, 417 n.27, 986 P.2d 790 (1999)). A statute that is unconstitutional on its face is rendered "totally inoperative." Id. Facial challenges are disfavored.

> Claims of facial invalidity often rest on speculation... [They] also run contrary to the fundamental principle of judicial restraint that courts should neither 'anticipate a question of constitutional law in advance of the necessity of deciding it' nor 'formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied.'

Washington State Grange v. Washington State Republican Party, 552 U.S. 442, 450-51, 128 S. Ct. 1184, 170 L. Ed. 2d 151 (2008) (quoting Ashwander v. TVA, 297 U.S. 288, 346-47, 56 S. Ct. 466, 80 L. Ed. 688 (1936) (Brandeis, J., concurring)). To demonstrate that RCW 9A.44.130(3) is unconstitutional as applied, Doe must show that "application of the statute in the specific context of the party's actions or intended actions is unconstitutional." Moore, 151 Wn.2d at 669 (citing Washington State Republican v. Washington State Pub. Disclosure Comm'n, 141 Wn.2d 245, 282 n.14, 4 P.3d 808 (2000). In contrast to a facially unconstitutional statute, a statute that is unconstitutional as applied prohibits only "future application of the statute in a similar context. . . ." Id.

To succeed on his facial challenge, Doe must show that there is no circumstance in which RCW 9A.44.130(3) may be applied constitutionally. Doe has not attempted to travel abroad, so his as-applied circumstances do not show whether the provision may be constitutionally applied. Therefore we consider hypothetical circumstances: a registered sex offender wishes to travel abroad in several months. He mails written notice of his travels to the county sheriff by certified mail more than twenty-one days before his departure. The sheriff receives the notice, which lists his name, passport number and country, destination, itinerary details including departure and return dates, and means and purpose of travel. This information is forwarded to the U.S. Marshall, who provides it to Interpol, which sends it to the destination country. The offender travels as planned.

Substantive Due Process Freedom of International Travel

Doe argues that RCW 9A.44.130(3) infringes his substantive due process freedom of international travel.[3] "The United States Supreme Court has explicitly stated foreign travel can be constitutionally limited." Katare v. Katare, 175 Wn.2d 23, 41, 283 P.3d 546 (2012) (citing Califano v. Aznavorian, 439 U.S. 170, 176, 99 S. Ct. 471, 58 L. Ed. 2d 435 (1978)). But we need not determine whether RCW 9A.44.130(3) is a permissible limitation on international travel. The provision does not, in every circumstance, limit an individual's freedom of international travel. In our hypothetical, the registered offender travels internationally. His freedom to travel internationally is not limited at all. Therefore, RCW 9A.44.130(3) does not violate substantive due process on its face.

Right to Privacy

Doe argues that RCW 9A.44.130(3) is unconstitutional because the requirement to share his travel plans is a disturbance of private affairs that is unlawful under article 1, section 7 of the state constitution. Sex offenders do not have a privacy right to the confidentiality of a significant amount of personal information. Their name, address, date and place of birth, place of employment, criminal history, date and place of conviction, aliases, and Social Security number may be disclosed to the sheriff and then to the public at large. In re

[3] Doe characterizes this as his Fifth Amendment right to travel. Because it is applied to State action, it actually implicates the Fourteenth Amendment. His primary argument is that a rational basis review of his claim is inappropriate and that we must apply intermediate scrutiny, under which he argues that he would prevail. But because we conclude that Doe's facial and as-applied claims do not meet the threshold requirements for review, we do not reach issues regarding the applicable level of scrutiny.

Meyer, 142 Wn.2d 608, 16 P.3d 563 (2001). In addition, sex offenders necessarily disclose travel when they notify the sheriff of a change of address. RCW 9A.44.130(5). These disclosure requirements implicate the right to travel and do not offend the right to privacy. Id.; Russell v. Gregoire, 124 F.3d 1079, 1094 (9th Cir.1997). Doe fails to explain how travel information such as an itinerary and passport number is subject to a greater right of privacy than an offender's residence, date of birth, and criminal history. Id. We disagree that travel information is subject to greater privacy protections than the personal information subject to disclosure under Meyer. RCW 9A.44.130(3) does not violate the right to privacy on its face.

Procedural Due Process

Doe makes a procedural due process challenge under article 1 section 3 of the state constitution and the Fifth Amendment to the federal constitution. He argues that due process requires an opportunity to demonstrate that he should be permitted to travel internationally without notice. The State does not respond to this argument. The Fourteenth Amendment to the U.S. Constitution prohibits the governmental deprivation of "life, liberty, or property, without due process of law." U.S. CONST. amend. XIV, § 1. Whether a protected liberty interest has been deprived is subject to the same analysis under the state and federal constitutions. Ino Ino, Inc. v. City of Bellevue, 132 Wn.2d 103, 104, 937 P.2d 154 (1997). There is a liberty interest in international travel that cannot be deprived without procedural due process. Califano, 439 U.S. at 176. But our hypothetical

sex offender was not deprived of this liberty: he was able to travel abroad. Thus, RCW 9A.44.130(3) does not facially violate procedural due process protections because it can be applied without deprivation of a protected liberty interest.

Ex post facto

Doe claims that RCW 9A.44.130(3) violates state and federal constitutional prohibitions against ex post facto laws. The ex post facto clauses of the federal and state constitutions forbid the State from enacting any law that imposes punishment for an act that was not punishable when committed or increases the quantum of punishment annexed to the crime when it was committed. U.S. CONST. art. 1, § 10; CONST. art. 1, § 23. Washington courts have consistently held that because sex offender registration is not punishment, registration laws do not violate ex post facto prohibitions. State v. Ward, 123 Wn.2d 488, 504, 869 P.2d 1062 (1994); Enquist, 163 Wn. App. at 49.[4]

Doe fails to meaningfully distinguish Enquist and Ward by explaining how the requirement to provide notice of international travel is more punitive than the sex offender registry generally in Ward, or the transient offender requirements in Enquist. He argues that because community custody typically includes travel restrictions, and community custody is punitive, the international travel notice requirement is punishment. This argument is unpersuasive because the notice requirement is not a physical restraint on travel. He also argues that the international notice requirement tips the balance of the registration scheme into

[4] Doe argues that this court should "revisit" Ward. The Supreme Court is the proper authority to decide whether Ward remains good law.

the territory of punishment. He fails to explain how the international travel notice requirement is more punitive than other provisions of the registration system that have been found to serve the non-punitive function of tracking the whereabouts of sex offenders.

Void for Vagueness

Doe argues that RCW 9A.44.130(3) is void for vagueness. But vagueness challenges to laws that do not involve First Amendment rights are evaluated in light of the particular facts of each case. City of Spokane v. Douglass, 115 Wn.2d 171, 182, 795 P.2d 693 (1990) (citing Maynard v. Cartwright, 486 U.S. 356, 361, 108 S. Ct. 1853, 1857, 100 L. Ed. 2d 372 (1988)). Because there are no First Amendment concerns with RCW 9A.44.130(3), we do not review a facial vagueness challenge.

Doe's as-applied challenge is not ripe

The State argues that Doe's as-applied argument fails because it is not ripe. "'Three requirements compose a claim fit for judicial determination: if the issues raised are primarily legal, do not require further factual development, and the challenged action is final.'" State v. Bahl, 164 Wn.2d 739, 751, 193 P.3d 678 (2008) (quoting First United Methodist Church v. Hr'g Exam'r, 129 Wn.2d 238, 255-56, 916 P.2d 374 (1996)). The court must also consider "'the hardship to the parties of withholding court consideration.'" Id.

The State contends that Doe's as-applied claim is not ripe because further factual development is necessary. We agree. We also conclude that Doe has not

shown a sufficient risk of hardship if we refuse to review his claim at this time. Doe has not yet given notice pursuant to the statute, or attempted to travel internationally with or without giving notice. Thus, we know nothing about whether and under what circumstances RCW 9A.44.130(3) prevents a sex offender from travelling abroad, or the circumstances under which an offender is punished for traveling abroad. In the absence of such facts, we are unable to analyze Doe's constitutional challenges. Nor has Doe shown that the operation of the statute significantly impedes his ability to travel abroad or otherwise imposes a risk of hardship.

Doe cites Steffel v. Thompson, 415 U.S. 452, 94 S. Ct. 1209, 39 L. Ed. 2d 505 (1974) to argue that his claim is ripe and reviewable. But in Steffel, protesters faced the imminent threat of state criminal prosecution for their hand billing outside a shopping center, which consequently deterred exercise of constitutionally protected speech. Doe has not attempted to travel in or out of compliance with RCW 9A.44.130(3), and he has not been threatened with prosecution for failure to comply with the provision. Because there is no imminent threat of state prosecution, this case is distinguishable from Steffel.

Doe's reliance on State v. Sanchez Valencia, 169 Wn.2d 782, 239 P.3d 1059 (2010) is also misplaced. There, petitioners, who had been convicted and sentenced to prison for certain drug crimes, challenged the constitutionality of certain conditions of supervision. Even though the petitioners were incarcerated, and the conditions had yet to take effect, the court found the claim ripe for

review. The court concluded that if it declined to do so there was a significant risk of hardship to petitioners because upon release from confinement they would be subject to the conditions of release and thus, immediately subject to arrest for violation of those conditions. Doe claims only that before traveling abroad he will be required to provide certain information to the sheriff. To the extent this is a hardship, it is distinguishable from the hardship the supreme court found significant in Sanchez Valencia.

We reject Doe's facial challenge to RCW 9A.44.130(3) and conclude that his as-applied challenge is not ripe for review.

Affirmed.

Specht, J.

WE CONCUR:

Leach, J.

Appelwick, J.

APPENDIX B

King County Superior Court's order granting the State of Washington's motion to dismiss

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

JOHN DOE, Plaintiff, v. STATE OF WASHINGTON, Defendant.	NO. 15-2-12121-9 KNT [PROPOSED] ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

This matter came before the Court for hearing on the Department's motion for summary judgment seeking dismissal of Plaintiff's complaint and judgment for the defendant.

The Court heard the oral argument of counsel for the State, Paul M. Crisalli, and counsel for the Plaintiff, pro se. The Court considered the pleadings filed in the action. The Court also considered the following documents and evidence which was brought to the Court's attention before the order on summary judgment was entered:

1. State's motion for summary judgment
2. Declaration of Paul M. Crisalli, and exhibits attached thereto
3. Plaintiff's Memorandum in Opposition to Motion for Summary Judgment
4. Plaintiff's Amended Complaint
5. State's Motion to Strike Amended Complaint
6. Plaintiff's Motion to Strike Exhibit 1 of Declaration
7. State's Response to Motion to Strike
8. Declaration of Paul M. Crisalli Regarding Plaintiff's Motion to Strike, and exhibits attached thereto

ATTORNEY GENERAL OF WASHINGTON
LABOR & INDUSTRIES DIVISION
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
(206) 464-7740

9. Plaintiff's Supplemental Memorandum in Opposition to State's Motion for Summary Judgment

10. Plaintiff's Declaration in Support of Supplemental Memorandum in Opposition to State's Motion for Summary Judgment

11. State's Reply on Its Motion for Summary Judgment

12. Plaintiff's Answer to State's Reply on Its Motion for Summary Judgment

Based on the argument of counsel and the evidence presented, the Court finds:

1. The Court has jurisdiction over the parties to, and the subject matter of, this appeal.

2. No genuine issue of material fact exist, the State is entitled to judgment as a matter of law.

Based on the above findings, IT IS ORDERED:

1. The Department's motion is granted. AND THE COURT RULES THAT RCW 9A.44.130(3) IS Constitutional.

2. Judgment shall be entered in favor of the Defendant. Plaintiff's complaint is dismissed.

DATED this 16th day of May, 2016.

Richard T. Mordenti
JUDGE

Presented by:
ROBERT W. FERGUSON
Attorney General

Paul M. Crisalli
Assistant Attorney General
WSBA No. 40681

Approved as to form:

John Doe, pro se

APPENDIX C

Motion to Publish Opinion

STATE OF WASHINGTON

COURT OF APPEALS, DIVISION ONE

JOHN DOE, Appellant, v. STATE OF WASHINGTON, Respondent.	Case No.: 75228-6 MOTION TO PUBLISH [RAP 12.3(e)]

I. IDENTITY OF PARTY AND RELIEF SOUGHT

Pursuant to RAP 12.3(e), Appellant John Doe moves this Court to publish the opinion in this case filed on May 22, 2017, because of the decision's important precedential value to all registered sex offenders in the State of Washington.

II. STATEMENT OF RELEVANT FACTS TO THIS MOTION

On May 22, 2017, this Court filed an unpublished opinion in which it affirmed the Superior Court's dismissal of Appellant's challenge to an amendment to the State's sex offender registration statute, RCW 9A.44.130(3). Doe had appealed the trial court's summary determination that the statutory provision referenced was constitutional, both on its face and as applied to Doe.

The amendment imposes a new notification and three-week waiting period prior to a registered sex offender leaving the country. The statute requires an

offender to provide detail travel information to the local county Sheriff three weeks before travel. In the alternative, for emergencies or routine business travel, a registrant can make an in-person written notification at the Sheriff's office at least 24 hours prior to departing,

The trial court, on motion for summary dismissal, dismissed the case prior to allowing Doe to present facts to why the new amendment was unconstitutional as applied to him. This Court in its opinion affirmed the decision of the Superior Court.

III. GROUNDS FOR RELIEF AND ARGUMENT

Pursuant to RCW 2.06.040, "[a]ll decisions of the court having precedential value shall be published as opinions of the court." In determining whether to publish an opinion, RAP 12.3(d) directs the Court to consider whether the decision (1) determines an unsettled or new question of law or constitutional principle, (2) modifies, clarifies, or reverses an established principle of law, (3) is of general public interest or importance, or (4) is in conflict with prior opinions of the Court of. Appeals. *See also State* v. *Fitzpatrick,* 5 Wn. App. 661, 669, 491 P.2d 262 (1971) (noting these criteria and adding a fifth: whether the decision is not unanimous).

The Court's decision in this case satisfies the first and third criteria: it addresses an issue of first impression for Washington courts, upholding a prior restraint to an activity for the first time, and is of general public interest and importance.

A. This Court's Decision Addresses an Issue of First Impression.

The requirement imposed on registrants to provide notice and wait three-weeks prior to traveling outside the county is an issue of first impression for any Washington

State court. Prior to this case, all appellate decisions, from *Ward*,[1] *Taylor*,[2] *Meyer*,[3] *Enquist*,[4] and others, have all ruled that Washington State sex offender requirements imposed no prior restraint to any activity, and therefore was purely regulatory. The opinion of this Court, for the first time in this state, ruled it was constitutional for the state to impose a prior restraint on an activity by a registrant. In this case, the activity being restrained was traveling abroad, by requiring a three-week waiting period. This ruling is significant and addresses an issue heretofore not ruled upon by this or any Washington State appellate court.

B. Registered Sex Offenders Expectation of Privacy

The Court's opinion makes clear that registered sex offenders have a lesser degree of privacy protection under Article I, Section 7. Here the issue was regarding additional information, heretofore not required, to be given to the local Sheriff. The information is in addition to the information regarding where a registrant resides, works, and other generally fixed personal data. The Court ruled that the travel information required by a registrant to be given to the Sheriff is not protected information under Article 1, Section 7.

C. The Court's Interpretation of Steffel[5] Requires Imminent Threat.

The Court's interpretation of *Steffel* appear to be stricter than how it is applied in the federal courts, as opinioned in *Wyoming v. Oklahom*[6] ["*A plaintiff may survive a motion to dismiss for lack of injury-in-fact by merely alleging that*

[1] Washington v. Ward, 123 Wash. 2d 488, 869 P.2d 1062 (Wa. 03/17/1994)
[2] Washington v. Taylor, 67 Wash. App. 350, 835 P.2d 245 (Wa.App. 08/31/1992)
[3] In re Personal Restraint Petition of Meyer, 142 Wash.2d 608, 16 P.3d 563 (Wash. 01/04/2001)
[4] State of Washington v. Gerald Duaine Enquist, 256 P.3d 1277, 163 Wash.App. 41 (Wash.App.Div.2 08/05/2011)
[5] Steffel v. Thompson, 415 U.S. 452, 94 S. Ct. 1209, 39 L. Ed. 2d
[6] Wyoming v. Oklahoma, 112 S. Ct. 789 (U.S. 01/22/1992)

a string of occurrences commencing with the challenged act has caused him injury", Citing Lujan[7]] and Duarte.[8] ["*But it is not necessary that petitioner first expose himself to actual . . . prosecution to be entitled to challenge a statute that he claims deters the exercise of his constitutional rights*", Citing Steffel]. The implication is that Washington Courts should apply *Steffel* for standing in similar statute applications only when there is an "*imminent threat*" of prosecution. This guidance will clarify how the lower courts should address such issues in Washington State courts.

For the reasons presented, Appellant John Doe moves this Court to publish its opinion in this case.

Respectfully submitted,

Date: May 24, 2016.

John Doe, Appellant, pro se
WashingtonVoices@gmail.com

[7] Lujan v. National Wildlife Federation, 497 U.S. (1990)
[8] Duarte v. City of Lewisville, 759 F.3d 514 (5th Cir. 07/22/2014)

APPENDIX D

Order Denying Motion to Publish Opinion

IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON

JOHN DOE, Appellant, v. STATE OF WASHINGTON, Respondent.	)	No. 75228-6-I ORDER DENYING APPELLANT'S MOTION TO PUBLISH

Appellant, John Doe filed a motion to publish the opinion filed on May 22, 2017 in the above case. A majority of the panel has determined that the motion should be denied;

Now, therefore, it is hereby

ORDERED that appellant's motion to publish the opinion is denied.

DATED this 13th day of June, 2017.

FOR THE COURT:

Spearman, J.

Presiding Judge

SCANNED

SUPREME COURT
STATE OF WASHINGTON

JOHN DOE,

Appellant,

v.

STATE OF WASHINGTON,

Respondent.

Case No.: 75228-6

CERTIFICATE OF SERVICE
PETITION FOR REVIEW

I certify under penalty of perjury under the laws of the State of Washington, that I caused the documents referenced below to be served as follows:

DOCUMENTS:

1. Petitioner's Petition for Review, including Appendices A, B, C, & D;
2. This Certificate of Service.

COPY TO: Mailed to the office of:

Mr. Paul M. Crisalli
Attorney General of Washington
Labor & Industries Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188

DATED this 10th day of July, 2017.

Stephen Spear
Pacific, WA