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SUPREME COURT
STATE OF WASHINGTON
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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

NO. 90906-7

Respondent,

AMICUS CURIAE WAPA'S
SECOND STATEMENT OF
ADDITIONAL AUTHORITIES

v.

HOWARD JOHN EVANS SHALE,

Appellant.

COMES NOW amicus curiae Washington Association of Prosecuting Attorneys ("WAPA") by and through, Pamela B. Loginsky, Staff Attorney, and respectfully requests that the Court consider the following additional authority pursuant to RAP 10.8:

With respect to preemption of state sex offender registration laws:

1. 73 Fed. Reg. 38032-35 (explaining that the federal SORNA law sets "a floor, not a ceiling" and does not prevent a jurisdiction from imposing more stringent or extensive requirements under state law and that there is no "actual conflict" between SORNA and state registration requirements that go further than SORNA)

2. 73 Fed. Reg. 38046 ("SORNA establishes a national baseline for sex



ORIGINAL

offender registration and notification programs. In other words, the Act generally constitutes a set of minimum national standards and sets a floor, not a ceiling, for jurisdictions' programs.”)

3. 73 Fed. Reg. 38050-51 (stating federal standards for registering persons convicted of a sex offense in a foreign country “only define the minimum categories of foreign convicts for whom registration is required for compliance with SORNA, and as is generally the case under SORNA, jurisdictions are free to require registration more broadly than the SORNA minimum.”)

4. 73 Fed. Reg. 38055:

As with SORNA's requirements generally, the informational requirements of section 114 and these Guidelines define a floor, not a ceiling, for jurisdictions' registries. Hence, jurisdictions are free to obtain and include in their registries a broader range of information than the minimum requirements described in this Part.

5. 73 Fed. Reg. 38062:

In the context of SORNA's requirements concerning the jurisdictions in which sex offenders must register, as in all other contexts under SORNA and these Guidelines, "jurisdiction" has the meaning given in SORNA § 111(10)--i.e., it refers to the 50 States, the District of Columbia, the five principal territories, and Indian tribes so qualifying under section 127. Hence, for example, if a sex offender resides in one county in a state but works in a different county in the same state, the state may wish to require the sex offender to appear for registration purposes before the responsible officials in both counties. But this is not a matter that SORNA addresses. Rather, the relevant "jurisdiction" for SORNA purposes in such a case is simply the state, and finer questions about particular locations, political subdivisions, or areas within the state in which a sex offender will be required to register are matters of state discretion under SORNA.

6. 73 Fed. Reg. 38068:

Like other SORNA registration requirements, the in-person appearance requirements of section 116 are only minimum standards. They do not limit, and are not meant to discourage, adoption by jurisdictions of more extensive or additional measures for verifying registration information. Thus, jurisdictions may require verification of registration information with greater frequency than that required by section 116, and may wish to include in their systems additional means of verification for registration information, such as mailing address verification forms to the registered residence address that the sex offender is required to sign and return, and cross-checking information provided by the sex offender for inclusion in the registry against other records systems. Section 631 of the Adam Walsh Act (P.L. 109-248) authorizes a separate grant program to assist in residence address verification for sex offenders. Additional guidance will be provided concerning application for grants under that program if funding for the program becomes available.

7. 76 Fed. Reg. 1631:

Some commenters criticized the supplemental guidelines as potentially resulting in greater disparity among jurisdictions in sex offender registration or notification standards by increasing jurisdictions' discretion in certain areas. SORNA, however, does not aim at complete uniformity among jurisdictions, but rather establishes a national baseline of sex offender registration and notification standards and generally leaves jurisdictions free to adopt different approaches and provisions beyond the required minimum. See 73 FR at 38032-35.

DATED January 20, 2015.

Respectfully Submitted,



PAMELA B. LOGINSKY, WSBA NO. 18096
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PROOF OF SERVICE

I, Pamela B. Loginsky, declare that I have personal knowledge of the matters set forth below and that I am competent to testify to the matters stated herein.

On the 20th day of January, 2015, I served an electronic copy of the document upon which this proof of service appears on the following persons at the following e-mail addresses:

Michael Haas at mhaas@co.jefferson.wa.us

Jodi R. Backlund, Mark Mistry, and Skylar Brett at backlundmistry@gmail.com

Fonda Woods at frondaw@atg.wa.gov

Jay Geck at jayg@atg.wa.gov

On the 20th day of January, 2015, I deposited in the mails of the United States of America, postage prepaid, copies of the document upon which this proof of service appears to:

Jodi R. Backlund
Manek R. Mistry
Skylar T. Brett
Backlund & Mistry
P.O. Box 6490
Olympia, WA 98507

The Honorable Michael Haas
Jefferson County Prosecutor
PO Box 1220
Port Townsend, WA 98368

Frona Woods
Jay Geck
1125 Washington Street SE
Olympia, WA 98504-0100

I declare under the penalty of perjury of the laws of the State of Washington
that the foregoing is true and correct.

Signed this 20th day of January, 2015, at Olympia, Washington.

A handwritten signature in cursive script, appearing to read "Pamela Beth Loginsky". The signature is written in black ink and is positioned above a horizontal line.

PAMELA B. LOGINSKY
WSBA NO. 18096

OFFICE RECEPTIONIST, CLERK

To: Pam Loginsky; FrondaW@ATG.WA.GOV; JayG@ATG.WA.GOV; Michael Haas; Jodi Backlund
Subject: RE: State v. Shale, No. 90906-7

Received 1-20-2015

Supreme Court Clerk's Office

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From: Pam Loginsky [mailto:Pamloginsky@waprosecutors.org]
Sent: Tuesday, January 20, 2015 11:53 AM
To: FrondaW@ATG.WA.GOV; JayG@ATG.WA.GOV; Michael Haas; OFFICE RECEPTIONIST, CLERK; Jodi Backlund
Subject: State v. Shale, No. 90906-7

Dear Clerk and Counsel:

Attached for filing is WAPA's second statement of additional authorities. (The first was filed in the Court of Appeals.)

Please do not hesitate to contact me if you should encounter any difficulty in opening the document.

Sincerely,

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