

**IN THE SUPERIOR COURT OF PENNSYLVANIA  
WESTERN DISTRICT**

---

**NO. 852 WDA 2013**

---

**In The Interest of: O.M.**

---

**BRIEF FOR APPELLEE**

---

**APPEAL FROM THE ORDER ENTERED IN THE COURT OF  
COMMON PLEAS, WESTMORELAND COUNTY, FAMILY  
DIVISION, JUVENILE SECTION, ON APRIL 12, 2013  
AT NO. CP-65-JV-551-2012**

**2 North Main Street  
Suite 206  
Greensburg, PA 15601  
(724) 830-3949**

**Wayne B. Gongaware  
Assistant District Attorney  
# 39572**

## **TABLE OF CONTENTS**

Table of Citations.....	ii
Counter-Statement of the Case.....	1
Summary of Argument.....	2-3
Argument:	
Issue I.....	4-6
Issue II.....	7-8
Issue III.....	9-19
Issue IV.....	20-21
Issue V.....	22-23
Conclusion.....	24

## TABLE OF CITATIONS

### **Cases**

<u>Acosta v. Gonzales</u> , 439 F.3d 550, 555 (9 <sup>th</sup> Cir.2006).....	18
<u>In Interest McDonough</u> , 430 A.2d 308, 287 (Pa.Super.1981). ....	18
<u>Ewing v. California</u> , 538 U.S. 11, 30 (2003).....	9
<u>Maryland State Dept. of Educ.of Veteran Affairs</u> , 98 F.3d 165 (4 <sup>th</sup> Cir.).....	18
<u>United States v. Juvenile Male</u> , 670 F.3d 999 (9 <sup>th</sup> Cir.2012);.....	9
<u>Commonwealth v. Abraham</u> , 2012 WL 7682814 (Pa.2012). ....	10
<u>Commonwealth v. Askew</u> , 907 A.2d 624 (Pa.Super. 2006).....	10
<u>Commonwealth v. Lehman</u> , 576 Pa. 365, 839 A.2d 265 (Pa.2003). ....	10
<u>Commonwealth v. Wall</u> , 867 A.2d 578 (Pa.Super. 2005).....	10
<u>Commonwealth v. Williams</u> , 574 Pa. 487, 832 A.2d 962 (Pa.2003),.....	10, 12
<u>Commonwealth v. Williams</u> , 832 A.2d 962 (Pa.2003). ....	14

### **Statutes**

1 Pa.C.S. §1921(a).....	18
1 Pa.C.S. §1921(c).....	18
18 Pa.C.S.A. §3121 .....	4
18 Pa.C.S.A. §3123 .....	4
18 Pa.C.S.A. §3802 .....	20
18 Pa.C.S.A. §9123(a.1).....	20
42 Pa.C.S.A. §6301 .....	18, 21
42 Pa.C.S.A. §6301(b)(2).....	18
42 Pa.C.S.A. §6336(e).....	4
42 Pa.C.S.A. §6403(a)(b)(c) .....	5
42 Pa.C.S.A. §9799.10 a .....	19
42 Pa.C.S.A. §9799.11 .....	11, 14, 19, 22
42 Pa.C.S.A. §9799.12 .....	4, 18
42 Pa.C.S.A. §9799.14. ....	7
42 Pa.C.S.A. §9799.28(a)(i)(ii). ....	5
75 Pa.C.S.A. §3804(1)(e).....	20

## **COUNTER-STATEMENT OF THE CASE**

O. M. was seventeen (17) years of age when he was adjudicated delinquent of Rape, Sexual Assault and Indecent Assault. On January 31, 2013, the Court pursuant to a disposition hearing ordered O. M. detained. O. M. was subsequently placed at Adelphoi Village Hilltop Home. In addition, the juvenile was ordered to comply with all requirements of SORNA. A timely post-dispositional motion was filed by O. M. The trial court on April 12, 2013 affirmed its order. O. M. filed a timely appeal. This brief is the Commonwealth's response to O. M.'s brief.

## **SUMMARY OF ARGUMENT**

The Pennsylvania Legislature enacted SORNA in part to protect the citizens of Pennsylvania from sexual offenders including juvenile sexual offenders. SORNA applies to juveniles fourteen (14) years of age or older who have been adjudicated of one of the predicate crimes of Rape, Aggravated Indecent Assault, or Involuntary Deviate Sexual Intercourse, all First Degree felonies. The Pennsylvania Supreme Court has held that in regards to adult SORNA the registration requirements are collateral consequences of the conviction of certain predicate crimes. While adults are subject to public notification of their registration requirements and subject to their personal information being placed on an internet site of sexual offenders, juvenile registration duties are not a matter of public notice and may not be released to the public. Adult SORNA, while subjecting a defendant to the possibility of being found a sexually violent predator, the requirement of registration is triggered following a conviction of a predicate offense pursuant to a tier system which increases the duration of the registration requirement as the seriousness of the predicate crime increases. Since the juvenile SORNA is only triggered upon adjudication of one of three serious first degree sexual offenses, the juvenile is required to register for life subject to modification after twenty-five (25) years. Adult SORNA has no provision for modification of the length of registration. Given

the legislative intent to protect Pennsylvania citizens, Juvenile SORNA is a reasonable path to fulfill the legislative intent and is not constitutionally infirm.

## **ARGUMENT**

### **I. (Issue II under Argument, Appellant's Brief, p.15)<sup>1</sup>**

**ISSUE: DOES REGISTRATION IMPOSE A STIGMA AND RESTRICTIONS THAT IMPEDE PETITIONER'S REPUTATION RIGHTS?**

**SUGGESTED ANSWER: NO.**

In order for a juvenile to be required to register pursuant to 42 Pa.C.S.A. §9799.12, the juvenile must be fourteen (14) years of age at the time of the offense and adjudicated of Rape (18 Pa.C.S.A. §3121 a first degree felony), Involuntary Deviate Sexual Intercourse (18 Pa.C.S.A. §3123, a first degree felony), or Aggravated Indecent Assault (18 Pa.C.S.A. §3123, a first degree felony).

The appellee avers that his juvenile privacy rights would be violated by having to register as a sex offender. Prior to passage of SORNA, however the privacy rights of juveniles had been abrogated by the juvenile act.

“(i) Prior to a petition alleging delinquency where the child was 14 years of age or older at the time of the alleged conduct and the alleged conduct would be considered a felony if committed by an adult “the general public shall not be excluded from any hearings under this chapter.”

42 Pa.C.S.A. §6336(e).

<sup>1</sup> The Appellant's brief is flawed in both the order of issues and the number of issues. Pursuant to O.M.'s list of issues on page 3 of his brief, footnote 1 states that O.M. is raising only four (4) issues. However, the Appellant's brief raises five (5) issues. The four issues listed in the Questions Involved are in a different order

than the issues raised in the brief. Therefore, the Commonwealth will address O.M.'s issues in the order they are listed in the Questions Involved and refer to the order of the issue as set forth in O.M.'s brief. The Commonwealth will address the five (5) issues set forth in O.M.'s brief.

The crimes which require registration are all felonies requiring hearings open to the public. SORNA mirrors the language of the crimes which triggers the duty to register. Title 42 Pa.C.S.A. requires open hearings for juveniles charged with any felony.

Appellee's argument alleging the violation of privacy rights under SORNA is specious because the hearing in which the juvenile has been adjudicated delinquent of a predicate crime which requires registration is already a matter of public record. SORNA, in fact, protects the privacy rights of juveniles by barring the disclosure of registration and the public web site unless the juvenile has been assessed by the Sexual Offenders Assessment Board to be a sexually violent delinquent child. (42 Pa.C.S.A. §9799.28(a)(i)(ii)). Such a designation can only be met following the juveniles placement in an institution, a requirement to register, a finding by the S.O.A.B. that the juvenile meets the criteria for a sexually violent delinquent child, and a public hearing with the right to counsel, found by clear and convincing evidence by the court that the juvenile meets the requirements for a sexually violent delinquent child. 42 Pa.C.S.A. §6403(a)(b)(c).

Any privacy rights the appellee claims have been violated by registration are already protected by SORNA. As a result, the alleged violation of O.M.'s privacy



rights is moot since SORNA only applies subsequent to a public hearing in juvenile court.

**II. (Issue III under Argument, Appellant's Brief, p.32).**

**ISSUE: WHETHER MANDATORY SEX OFFENDER REGISTRATION CREATES AN IRREBUTTABLE PRESUMPTION THAT JUVENILES ADJUDICATED DELINQUENT OF CERTAIN INUMERATED OFFENSES REQUIRE LIFETIME REGISTRATION BASED ON THEIR ADJUDICATION WHEN THEY WERE A JUVENILE?**

**SUGGESTED ANSWER: NO.**

SORNA, unlike registration requirements for adult offenders, requires that any information concerning registration of juveniles remain private. Adult offender's duty to register is a matter of public knowledge and is posted on an internet site of sexual offenders. Adult sexual offenders have a right to a hearing to determine if they meet the requirements to be designated a violent sexual predator. Even if they are not determined to be a sexual violent predator however, they are still required to register for a specific period of time as determined by a tier system. Title 42 Pa.C.S.A. §9799.14. A hearing is not required prior to a mandatory reporting requirement if the adult has been found guilty of predicate crimes.

The remaining arguments of O.M. are nothing more than speculation regarding possible scenarios that have not occurred to the juvenile or any juvenile in the Commonwealth of Pennsylvania.

Since the speculative scenarios have not occurred, the juvenile has no right of appeal regarding potential injuries.

**III. (Issue IV in Argument, Appellant's Brief, p.38)**

**DOES JUVENILE SORNA VIOLATE  
CONSTITUTIONAL BAN ON CRUEL AND  
UNUSUAL PUNISHMENT?**

**SUGGESED ANSWER: NO.**

The juvenile's argument that the registration requirements are cruel and unusual punishment must fail because registration does not meet the standards for such punishment and is not punitive. The federal courts have held that "the bar for cruel and unusual punishment is high." United States v. Juvenile Male, 670 F.3d 999, 1010 (9<sup>th</sup> Cir.2012); see also, Ewing v. California, 538 U.S. 11, 30, 31 (2003) (a sentence of 25 years to life for a third strike crime involving the theft of three golf clubs not disproportionate).

The standard as to whether a statute is punitive should not change simply due to an individual's age. As stated previously, SORNA treats adults and juveniles differently by expanding the number of predicate offenses for adults, requiring public knowledge of registration of adults, the possibility of an adult being found to be a sexual predator and setting forth mandatory periods of registration which cannot be reduced.

Juveniles are not subject to public notice of registration, can only be found to be a sexually violent juvenile offender after meeting stringent requirements not

required for adults and juveniles and may petition for release from registration after 25 years.

In addition, Pennsylvania courts have determined that the stricter registration requirements of adult offenders are not punitive and are not protected under the Eighth Amendment. Commonwealth v. Williams, 574 Pa. 487, 832 A.2d 962 (Pa.2003); Commonwealth v. Askew, 907 A.2d 624, 628 (Pa.Super. 2006); Commonwealth v. Abraham, 2012 WL 7682814 (Pa.2012).

**1. SORNA does not impose an affirmative disability or restraint.**

In his argument, O.M. cites two cases: Commonwealth v. Wall, 867 A.2d 578, 582-83 (Pa.Super. 2005) and Commonwealth v. Lehman, 576 Pa. 365, 839 A.2d 265 (Pa.2003).

O.M. cites Wall for the proposition that a \$200 assessment for a conviction of a D.U.I. had a “direct effect and punitive.” The Superior Court actually limited the issue to whether the assessment was a fine and held that it was. “The additional assessment is analogous to a fine. Historically, fines are punishment.” Wall at 583. Since the issue was whether the defendant was unjustly subject to a fine which was not in existence at the time of the defendant’s arrest the Court held the assessment increased the defendant’s punishment and therefore reversed the trial court’s decision.

In the case of Commonwealth v. Lehman, cited by O.M. the issue was whether an individual who was prohibited from owning a firearm following a conviction of the Pennsylvania firearms act was unjustly punished as a result of an *ex post facto* punishment. The Court held, “[b]ecause the civil disability imposed on appellant neither constitutes punishment nor punishes conduct that occurred prior to the GCA’s adoption, preventing him from purchasing or possessing a firearm does not violate the *Ex Post Facto* Clause.”

While agreeing that the prohibition against owning a firearm was an “affirmative disability”, the court further held that “one factor alone does not provide the ‘clearest proof’ section 922(9) has a punitive purpose.” The Court found that the prohibition against owning a firearm was a civil disability and did not constitute punishment.

The Pennsylvania legislature set forth its legislative findings and declaration of policy as follows:

“(a) This Commonwealth’s laws regarding registration of sexual offenders need to be strengthened. The Adam Walsh Child Protection and Safety Act of 2006 provides a mechanism for the Commonwealth to increase its regulation of sexual offenders in a manner which is non-punitive but offers an increased measure of protection to the citizens of the Commonwealth.”

42 Pa.C.S.A. §9799.11.

Registration pursuant to SORNA imposes non-punitive civil disability upon a juvenile similar to the disability of the prohibition to ownership of firearm in the Lehman case. The Pennsylvania Legislature has expressed its intent that the registration requirements are non-punitive. In addition, the Pennsylvania Courts have held that the stricter requirements of registration for adults are non-punitive, Commonwealth v. Williams, 574 Pa. 487, 832 A.2d 962 (Pa.2003), and simply collateral consequences of the conviction of predicate offenses.

**B. SORNA does not impose extraordinary secondary disabilities and restraints.**

O.M.'s arguments regarding secondary effects allegedly imposed on juveniles has been addressed in previous arguments in the Commonwealth's response.

In addition, in 2005, the House Committee on the judiciary noted:

While the Committee recognizes that States typically protect the identity of a juvenile who commits criminal acts, in the case of sexual offenses, the balance needs to change; no longer should the rights of the juvenile offender outweigh the rights of the community and victims to be free from additional sexual crimes. For victims, whether the offenders [sic] is an adult or a juvenile has no bearing on the impact of that sexual offense on the life of the victim. [SORNA] strikes the balance in favor of protecting victims, rather than protecting the identity of juvenile sex offenders.

H.R.REP. No. 109-218, pt. 1, at 25.

The remainder of O.M.'s argument are based upon speculation and must fail.

**2. SORNA is not similar to traditional forms of punishment.**

The Commonwealth has previously addressed the issue of whether SORNA is punitive in nature or a collateral consequence and further argument is required.

**3. SORNA does not apply only upon a finding of scienter.**

Scienter is not to deal with what happens after he is adjudicated, but what happens prior to his adjudication. The requirements of registering come about when that person is convicted of one of the predicate offenses required by the statute. The Pennsylvania Supreme Court, in deciding whether SORNA in adult cases rely upon scienter, held:

Under the statute, registration, notification, and counseling apply to individuals adjudicated to be sexually violent predators. The determination of an individual's status as such is only undertaken if the individual is convicted of a predicate offense. In this respect, the Act differs from the civil commitment statute at issue in Hendricks, under which a person could be deemed a sexually violent predator even if he had been acquitted by reason of insanity or found incompetent to stand trial. See Hendricks, 521 U.S. at 352, 117 S.Ct. at 2077. Still, not all of Megan's Law II's predicate offenses require a finding of scienter for conviction; some can be committed whether or not the defendant is aware of certain facts that make his conduct criminal. For example, a defendant who creates a visual record or depiction of sexual acts by a



minor child can be convicted of sexual abuse of children pursuant to Section 6312(b) of the Crimes Code, see 18 Pa.C.S. §6312(b), even where he has a good faith belief that the child is over eighteen years of age. See, 18 Pa.C.S. §6312(e.1). The Act's provisions, then, do not become applicable only upon a finding of scienter, thus supporting the conclusion that Megan's Law II is non-punitive pursuant to this Mendoza-Martinez factor. Accord Doe I v. Otte, 259 F.3d 979, 989 (9<sup>th</sup> Dir.2001), rev'd on other grounds sub nom Smith v. Doe I, 538 U.S. 84, 123 S.Ct. 1140, 155 L.Ed.2d 164 (2003). It significant as well that, when considering the question of whether civil commitment could be imposed only upon a finding of scienter, the Hendricks court did not premise its negative answer upon the possibility that commitment could follow an acquittal. It observed, rather, that "the commitment determination is made based on a 'mental abnormality' or 'personality disorder' rather than one's criminal intent." Id. at 362, 117 S.Ct. at 2082. Here the relevant determination of sexually violent predator status is likewise made based upon a mental abnormality, thus bolstering the conclusion that the provisions do not come into play" only upon a finding of scienter for purposes of Mendoza-Martinez.

Commonwealth v. Williams, 832 A.2d 962 (Pa.2003).

#### **A. SORNA does not exact retribution**

As discussed previously, SORNA registration is a civil consequence of an adjudication for a predicate crime. The legislative intent is to "protect the citizens of Pennsylvania in a non-punitive manner." 42 Pa.C.S.A. §9799.11(a)(2).

## **B. SORNA does not promote deterrence.**

The Appellant now posits that deterrence “can be seen as an “obvious” goal of sex offender registration.” He cites Commonwealth v. Williams, for the proposition that sex offender registration is not a deterrence due to the “substantial period of incarceration attached to the predicate offense.” O.M. reasons that since juvenile SORNA does not require incarceration, the juvenile SORNA promotes deterrence. This reasoning is defective because Williams does not state what Appellant claims. Williams as cited by Appellant states:

### **(4) Traditional aims of punishment**

Subjection to the registration and counseling requirements, like civil commitment in Hendricks, does not operate primarily to deter, or exact retribution for blameworthy conduct. Given the substantial period of incarceration attached to the predicate offense, it is unlikely that the prospect of subsequent registration, notification, and counseling will have any marginal deterrent effect upon a sexually violent predator. See Hendricks, 521 U.S. at 362, 117 S.Ct. at 2082 (observing that a person suffering from a mental abnormality or personality disorder that prevents him from exercising adequate control over his behavior is not likely to be deterred, even by the threat of confinement). Although registration and notification may curtail opportunities to commit future sex offenses, these measures primarily protect innocent persons from victimization by permitting such persons to alter their own behavior according to the risks posed. Accord, Roe, 125 F.3d at 55. Nor are the measures at issue primarily retributive, as they do not require the individual to “pay his debt to society,” Williams v. Illinois, 399 U.S. 235, 261, 90 S.Ct. 1018, 2031, 26 L.Ed.2d 586 (1970) (Harlan, J., concurring) through the imposition of fines, restitution or

confinement. See generally BLACK'S LAW DICTIONARY 1318 (7<sup>th</sup> ed. 1999) (defining retribution in terms of repayment or revenge for the offense committed); In re Murphy, 127 Vt. 198, 243 A.2d 788, 789 (1968) (recognize that retribution subsumes the concept of payment for damage done). Any retributive effect of the challenged provisions, therefore, is ancillary to the results achieved in terms of societal awareness and self-protection, and rehabilitation of the offender. Accordingly, this factor also weighs in favor of finding the Act non-punitive.

Williams, 832 A.2d at 978 (Pa.2003).

**5. The behavior to which SORNA applies is already a crime.**

As in the adult SORNA act, juvenile SORNA act registration is triggered only after an adjudication of a predicate offense. The Williams court, however did not follow the Appellant's reasoning. The Court stated: "The Act's rational connection to a non-punitive purpose is a most significant factor in our determination that the statute's effects are not punitive." Williams, 832 A.2d 962 (Pa.2003). As a result, O.M.'s argument must fail.

**6. SORNA is rationally related to a non-punitive purpose.**

This issue has been addressed in the prior argument which cited Williams.

**7. Lifetime sex offender registration for juveniles is not excessive.**

Initially, the Appellant's averment that juveniles are subject to lifetime registration is misleading. The lifetime registration for a juvenile may be shortened after 25 years upon application by the juvenile. This provision is only one factor that distinguishes adult SORNA registration requirements from juvenile SORNA. Since

SORNA registration is automatically triggered upon adjudication of a predicate crime, the question of the recidivism rate of juveniles is irrelevant to the Appellant's argument.

**A. Is Lifetime sex offender registration a disproportionate punishment for children.**

This argument is specious. Registration for adult sexual offenders has been found to be non-punitive.

**B. Mandatory, lifelong registration is not unconstitutional as applied to juveniles.**

Registration requirements for juveniles is only required after the juvenile has been adjudicated for the most serious, first degree felony sexual offenses. Appellant does not refer to any section of the Pennsylvania Constitution which has been violated, but simply discusses unfairness of registration.

L. M. argues that the lifetime registration requirement runs "counter" to the rehabilitative goals of the Juvenile Act. However, L.M.'s argument must fail for two reasons. First, because appellant overlooks the complete purpose of the Juvenile Act. Second, the juvenile overlooks the more recent and more specific provisions of SORNA that supersede provisions or purposes of the Juvenile Act that are in conflict with SORNA's plain meaning.

The Commonwealth's role under the Juvenile Act is to accomplish balanced and restorative justice, which is to provide "balanced attention to the protection of the

community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community.” 42 Pa.C.S.A. §6301(b)(2). Prior views included protecting public interests, and supervising and rehabilitating youthful offenders. In Interest McDonough, 430 A.2d 308, 287 (Pa.Super.1981). In addition, one of the purposes of the Juvenile Act directly addresses concerns for the safety of the community and the need for accountability beyond simply the need to rehabilitate juveniles.

Furthermore, in Acosta v. Gonzales, 439 F.3d 550, 555 (9<sup>th</sup> Cir.2006) conflicting statutes should be interpreted so as to give effect to each but to allow a later enacted, more specific statute to amend an earlier, more general statute. In considering statutory construction, Courts must consider the plain language of the SORNA provision and give it full effect. See Maryland State Dept.of Educ.of Veteran Affairs, 98 F.3d 165, 168-69 (4<sup>th</sup> Cir.1996). Further, in Pennsylvania, the “object of the interpretation and construction of statutes is to ascertain and effectuate the intention of the General Assembly.” 1 Pa.C.S. §1921(a). “A statute’s plain language generally provides the best indication of legislative intent.” 1 Pa.C.S. §1921(c). Thus, SORNA and 42 Pa.C.S.A. §9799.12 *et seq.*, should be read just as the statute explicitly provides.

Although the original goal of the Juvenile Act was to rehabilitate juveniles, the Juvenile Act now encompasses the principles of balanced and restorative justice. Moreover, it is clear that this has not changed due to the clear intent in the SORNA and 42 Pa.C.S.A. §9799 statutes in requiring older juveniles for certain serious sex crimes to register. This intent is clearly stated in 42 Pa.C.S.A. §9799.10 and 42 Pa.C.S.A. §9799.11. Such a requirement is clear and unambiguous and the intent of the legislature set forth at 42 Pa.C.S.A. section 9799.10 and 42 Pa.C.S.A. §9799.11.

**IV. (Issue V of Argument, Appellant's Brief p. 63).**

**DOES LIFETIME JUVENILE SEX OFFENDER  
REGISTRATION CONTRAVENE THE  
PENNSYLVANIA JUVENILE ACT?**

**SUGGESTED ANSWER: NO.**

O. M. argues that since a juvenile's duty to register pursuant to SORNA may extend past the juvenile's 21<sup>st</sup> birthday, such a requirement exceeds the authority of the juvenile court which only extends to age 18. The requirement of a juvenile to register as a sexual offender is not criminal punishment or an enhancement of punishment but, rather, a civil consequence of a prior adjudication of a predicate sexual offense.

Other examples of civil consequences following an adjudication of certain adjudications which extend past the juvenile's 21<sup>st</sup> birthday include the following: 18 Pa.C.S.A. §9123(a.1) (expungements for certain juvenile adjudications prohibited) and 75 Pa.C.S.A. §3804(1)(e) license suspension of juvenile adjudicated pursuant to 18 Pa.C.S.A. §3802.

As a result, the civil consequence arising from the adjudication of one of the enumerated predicate crimes for purposes of SORNA does not violate the Pennsylvania Juvenile Act.

suddenly change when the older juvenile becomes an adult at age 18. The Diagnostic and Statistical Manual of Mental Disorders (DSM-IV<sup>TM</sup>), for example, defines Pedophilia as the attraction to prepubescent children. For an individual to be diagnosed as a pedophile, he or she must be at least 16 years of age and 5 years or more older than the victim. According to the DSM, the condition is chronic (DSM-IV<sup>TM</sup> (302.2)) as are other serious mental disorders. The Pennsylvania Legislature properly focused its attention to protection of the public given the risk of a juvenile sexual offender repeating his acts. Even the appellant refers to a study that found:

“Additionally, sexual recidivism cannot be predicted by offense. The extant research has not identified any stable, offense-based risk factors that reliably predicts sexual recidivism in adolescents.”

(Appellant’s Brief, p.13).


As a result, Appellant’s argument must fail.



## **CONCLUSION**

Wherefore, the Commonwealth respectfully requests the Honorable Court affirm the decision of the trial court and find the Juvenile SORNA Act constitutionally sound.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Wayne B. Gongaware", is written over a horizontal line.

Wayne B. Gongaware  
Assistant District Attorney

**PROOF OF SERVICE**

I hereby certify that I am this day serving the foregoing document upon the persons and in the manner indicated below which service satisfies the requirement of Pa.R.A.P. 121:

Service by first class mail addressed as follows:

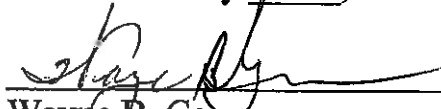
Marsha Levick, Esq.  
Juvenile Law Center  
1315 Walnut Street  
Suite 400  
Philadelphia, PA 19107-4719

Riya Saha Shah, Esq.  
Juvenile Law Center  
1315 Walnut Street  
Suite 400  
Philadelphia, PA 19107-4719

Service by Inter-Office mail addressed as follows:

Wayne McGrew, Esq.  
Westmoreland County Public Defender  
2 N. Main Street  
Suite 404  
Greensburg, PA 15601

Dated: January <sup>24</sup>, 2014



Wayne B. Gongaware  
Pa. ID # 39572  
Assistant District Attorney  
Westmoreland County  
2 North Main Street  
Suite 206  
Greensburg, PA 15601  
Counsel for Commonwealth of Pennsylvania  
(724) 830-3949