2016 IL App (1st) 131365-U
No. 1-13-1365

THIRD DIVISION
May 11, 2016

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of Cook County.
Plaintiff-Appellee,	)	
	)	
v.	)	No. 12 CR 282
	)	
SIDNEY LOGWOOD,	)	
	)	The Honorable
Defendant-Appellant.	)	Neil Linehan,
	)	Judge Presiding.

JUSTICE PUCINSKI delivered the judgment of the court.
Justices Fitzgerald Smith and Lavin concurred in the judgment.

ORDER

¶ 1 *Held:* Requirement that defendant must register as sex offender for the rest of his life did not violate *ex post facto* clauses or defendant's substantive and procedural due process rights.

¶ 2 Defendant pled guilty to felony possession of a firearm and was sentenced to three-and-a-half years of imprisonment. As a result of the guilty plea, coupled with his prior conviction for criminal sexual assualt, defendant was required to register as a sex offender for the rest of his life. Defendant filed a *pro se* post-conviction petition alleging that the registration requirement violated *ex post facto* clauses as well as his due process rights. The circuit court summarily

dismissed the petition. Defendant appealed. For the following reasons we affirm the circuit court's dismissal of defendant's petition.

¶ 3 BACKGROUND

¶ 4 In December 1996, defendant Sidney Logwood pled guilty to one count of criminal sexual assault and was sentenced to four years' imprisonment in the Illinois Department of Corrections (IDOC). As a result of that conviction, defendant was required to register as a sex offender for 10 years after his release from prison in accordance with the Sex Offender Registration Act (SORA) (730 ILCS 150/1 *et seq*. (West 2012)).

¶ 5 Defendant began registering as a sex offender in 1998 and ultimately completed the registration period on April 12, 2011. The Department of State Police, which maintains the sex offender registry, notified defendant that he was no longer required to register under SORA, but that should he become liable to register again under SORA, his registration requirement would be reactivated.

¶ 6 On May 1, 2012, defendant pled guilty to possession of a firearm by a felon and was sentenced to three-and-a-half years in IDOC. While incarcerated, prison staff informed defendant that upon his release, he would have to again register as a sex offender because "offenders convicted after July of 2011 that also have a past sex offense conviction have a duty to register as a sex offender in accordance with Public Act 97-578."

¶ 7 On February 1, 2013, defendant filed a *pro se* post-conviction petition, arguing that Public Act 97-578 was unconstitutional because it required him to register as a sex offender even though he had already completed the 10-year requirement to register as a sex offender for his sexual assault offense. On April 3, 2013, the circuit court summarily dismissed the post-conviction petition, holding that SORA was not punitive and that the retroactive application of

SORA and its amendments did not violate *ex post facto* clauses. The court found that the issues raised and presented by defendant were frivolous and patently without merit. Defendant appeals from the summary dismissal of his petition.

¶ 8 ANALYSIS

¶ 9 On appeal, defendant contends that the circuit court erred in dismissing his petition as frivolous and patently without merit and not recognizing that he articulated the gist of a constitutional argument that the amendments to SORA are unconstitutional. Defendant raises two claims in support of his contention. Defendant argues that Public Act 97-578, which amended SORA violates: (1) federal and Illinois constitutional prohibitions against *ex post facto* clauses by retroactively increasing the punishment of sex offenders whose obligation to register has been discharged; and (2) the due process clauses of the United States and Illinois Constitutions. U.S. Const. amend. XIV; Ill. Const. 1970, art. I, § 2. Specifically, defendant argues that SORA violates his right to substantive due process because it infringes on his fundamental constitutional rights; and, violates his right to procedural due process because it infringes on his liberty interests without proper procedural safeguards.

¶ 10 The Post-Conviction Hearing Act (Act) establishes a three-stage process to resolve claims that a petitioner suffered a constitutional violation. 725 ILCS 5/122.1 (West 2012); *People v. Hodges*, 234 Ill. 2d 1, 9-11 (2009). At the first stage, the circuit court considers the petition without any input from the State and decides whether the petition is frivolous and patently without merit. 725 ILCS 5/122-2.1(a)(2) (West 2012). A petition is frivolous and patently without merit when the petition has no arguable basis in either fact or law. *Hodges*, 234 Ill. 2d at 23. When the petitioner raises non-meritorious claims, the court may summarily dismiss them. *People v. Richardson*, 189 Ill. 2d 401, 408 (2000). This court reviews the circuit court's

summary dismissal of a post-conviction petition *de novo*. *People v. Edwards*, 197 Ill. 2d 239, 247 (2001).

¶ 11 Statutory Provisions at Issue

¶ 12 In 2012, Public Act 97-578 amended SORA to add sections 2(E)(7) and 3(c)(2.1). Section 2(E)(7) expanded the definition of "sexual predator" to include persons who had been convicted of an offense listed in section 2(E)(1), including criminal sexual assault prior to July 1, 1999, and who have been convicted of a felony offense after July 1, 2011. 730 ILCS 150/2(E)(7) (West 2012). Section 3(c)(2.1) of SORA was amended to require that a "sexual predator" as defined by section 2(E)(7) who had successfully completed a 10–year registration period for a sexual assault conviction dating before July 1, 1999, must again register as a sex offender if two conditions are met. 730 ILCS 150/3(c)(2.1) (West 2012). First, the person must register if he has been convicted of any felony offense after July 1, 2011; and second, the offense for which the 10–year registration was served currently requires a registration period of more than 10 years. 730 ILCS 150/3(c)(2.1) (West 2012). At the time of defendant's May 2012 felony conviction, SORA classified a person convicted of criminal sexual assault as a "sexual predator" and required that he register for his natural life, rather than for a 10–year period.

¶ 13 Defendant meets the requirements of section 3(c)(2.1) of SORA because he was convicted of a felony offense after July 1, 2011, when he was convicted in May 2012 of possession of a firearm by a felon; and second, his prior conviction for criminal sexual assault, as a result of the 2012 amendment of section 2(E)(7), is categorized as a "sexual predator," requiring lifetime registration under SORA.

¶ 14 Defendant takes issue with provisions of the amended SORA that increase his registration requirements. Defendant, as a sexual predator, now has a duty to register in person with the law

enforcement agency in the municipality or county where he resides within three days of his release from prison. He will also have to register with the law enforcement agency in any municipality or county where he is temporarily domiciled for at least three days, and must provide that agency with his travel itinerary while there. 730 ILCS 150/3(a) (West 2012). Each time he registers, he must provide the authorities with a host of information about himself, including information about his address, employment, phone numbers, any internet identities and sites maintained by defendant. 730 ILCS 150/3(a) (West 2012). Defendant will also be required to provide proof of his address with positive identification and documentation and will be required to pay a $100 fee every time he registers. 730 ILCS 150/3(c)(5)(6) (West 2012).

¶ 15 Defendant will be required to re-register annually. 730 ILCS 150/6 (West 2012). But the law enforcement agency with which defendant is registered may require him to appear, on request, up to four more times per year. *Id.* If defendant lacks a fixed residence, he will be required to register on a weekly basis. *Id*. If any of the information that defendant previously provided changes, he will have to notify the last law enforcement agency he registered with, in person, within three days. 730 ILCS 150/3, 6 (West 2012).

¶ 16 Defendant will be required to comply with these provisions for the rest of his life. 730 ILCS 150/7 (West 2012). If defendant fails to comply with any of these requirements, he may be convicted of a Class 3 felony (730 ILCS 150/10(a) (West 2012)), carrying a sentence of up to five years' incarceration. 730 ILCS 5/5–4.5–40(a) (West 2012). Any subsequent failures to register are Class 2 felonies (730 ILCS 150/10(a) (West 2012)), which ordinarily have a sentencing range of 7 to 14 years' incarceration, but, because of defendant's prior convictions, will have a sentencing range of 6 to 30 years' incarceration. 730 ILCS 5/5–4.5–95(b) (West

2012). He will be required to pay a mandatory minimum $500 fine for each failure to register. 730 ILCS 150/10(a) (West 2012). We now turn to the merits of defendant's arguments.

¶ 17 1. *Ex Post Facto*

¶ 18 Defendant claims that Public Act 97-578, which amended SORA, violates federal and Illinois constitutional prohibitions against *ex post facto* clauses by retroactively increasing the punishment of sex offenders whose obligation to register has been discharged. The State responds that the retroactive application of lifetime sex offender registration cannot violate *ex post facto* principles because sex offender registration is not "punishment."

¶ 19 The constitutionality of a statute is a question of law subject to *de novo* review. *People ex. rel. Sherman v. Cryns*, 203 Ill. 2d 264, 290 (2003). Statutes are presumed to be constitutional and the party challenging the constitutionality of the statute has the burden of clearly establishing its invalidity. *Id*.

¶ 20 The *ex post facto* clauses of the United States and Illinois Constitutions prohibit the retroactive application of laws inflicting greater punishment than the law in effect at the time a crime was committed. U.S. Const., art. I, § 10, cl. 1; Ill. Const. 1970, art. I, § 16; *Smith v. Doe*, 538 U.S. 84, 92 (2003); *People v. Cornelius*, 213 Ill. 2d 178, 207, (2004); *People v. Fredericks*, 2014 IL App (1st) 122122, ¶ 54. Whether a law constitutes "punishment" or not hinges upon whether the legislature intended the law to establish civil proceedings or impose punishment. *Smith*, 538 U.S. at 92. Even if the intention was to enact a civil regulatory scheme, however, the law may violate the clause where "the clearest proof" shows that it is "so punitive either in purpose or effect" as to constitute punishment. (Internal quotation marks omitted.) *Id*.; *Fredericks*, 2014 IL App (1st) 122122, ¶ 54; *People v. Malchow*, 193 Ill. 2d 413, 421 (2000).

¶ 21 The United States and Illinois Supreme Courts have consistently held that the retroactive application of sex offender registration is not "punishment" prohibited by the *ex post facto* clause. *Fredericks*, 2014 IL App (1st) 122122 ¶ 55; *Smith*, 538 U.S. at 105–06; *People ex rel. Birkett v. Konetski*, 233 Ill. 2d 185, 210-11 (2009*); Malchow*, 193 Ill. 2d at 424. While defendant maintains that registration constitutes punishment, those courts have considered the same arguments in rejecting *ex post facto* challenges to sex offender registration. *Smith*, 538 U.S. at 98–99; *Malchow*, 193 Ill. 2d at 420–24.

¶ 22 Defendant acknowledges the holdings of these cases but contends that the current version of SORA far exceeds the burdens in place when most of these cases were decided. Defendant claims that SORA has become more onerous with regard to the increase in the amount of information a sex offender must disclose, the number of agencies to which a sex offender must disclose that information, how often a sex offender must register, how often a sex offender must report in person, the amount a sex offender is required to pay for initial registration and an annual renewal fee, and SORA now punishes noncompliance more severely. Defendant also challenges laws that require the retroactive application of lifetime sex offender registration to those whose obligation to register has been discharged. Defendant maintains that SORA retroactively imposes a comprehensive scheme of disabilities and restraints that belie the purportedly non-punitive nature of SORA, and therefore violates the *ex post facto* prohibitions of the United States and Illinois Constitutions.

¶ 23 Defendant argues that legislative intent to enact a non-punitive statute can be overridden by evidence that the statute has a punitive effect. Defendant maintains that state courts have recently found that state SORA's similar to Illinois' SORA violate both the federal and their respective state *ex post facto* clauses. In support, defendant cites *Doe v State*, 189 P.3d 999

(2008); *Starkey v. Oklahoma Dept. of Corrections*, 305 P. 3d 1004 (2013); and *State v. Letalien*, 985 A. 2d (2009). Defendant contends that the central theme of all these cases is that the cumulative effect of the amendments to their state's SORA's tipped them from regulatory to punitive.

¶ 24 Defendant also asks us to follow *Gonzalez v. State*, 980 N.E. 2d 1108 (2013), which held that the retroactive imposition of lifetime sex offender registration violated the Indiana's Constitution's *ex post facto* clause as applied to the defendant. The *Gonzalez* court noted that Indiana courts do not accept the United States Supreme Court's heightened standard of "clearest proof" in evaluating whether a law has punitive effects or not. *Id.* at 316 n.3; see also *Smith*, 538 U.S. at 92; *Fredrick*, 2014 IL App (1st) 122122, ¶56. Illinois courts use a different standard than Indiana: "the *ex post facto* clause in the Illinois Constitution does not provide greater protection than that offered under the United States Constitutions." *Konetski*, 233 Ill. 2d at 209. Our supreme court has applied the same "clearest proof" standard as the United States Supreme Court. *Malchow*, 193 Ill. 2d at 421. This precedent compels us to decline *Gonzalez* as authority for granting relief to defendant. See *Fredrick*, 2014 IL App (1st) 122122, ¶56.

¶ 25 Defendant argues that SORA should only be applied to individuals who have been convicted of a relevant criminal offense. He argues that, because he completed his 10–year registration for his 1996 conviction and he has not committed another sex offense, imposing lifetime sex offender registration can only be construed as retroactive punishment.

¶ 26 In determining whether an ostensibly civil statute has a punitive effect, we look to seven factors: (1) whether the sanction involves an affirmative disability or restraint; (2) whether the sanction has been historically regarded as punishment; (3) whether the sanction comes into play only on a finding of *scienter*; (4) whether operation of the sanction will promote retribution and

deterrence; (5) whether the behavior to which the sanction applies is already a crime; (6) whether an alternative purpose to which the sanction may rationally be connected is assignable to it; and (7) whether the sanction appears excessive in relation to the alternative purpose assigned. *Fredrick*, 2014 IL App (1st) 122122, ¶ 58 (citing *Malchow*, 193 Ill. 2d at 421 (citing *Kennedy v. Mendoza–Martinez*, 372 U.S. 144, 168–69 (1963)).

¶ 27 Defendant maintains that under the *Malchow* factors there is clear proof that SORA provisions violate *ex post facto* clauses because: (1) the registration requirements involve affirmative disabilities and restraints that equate to the treatment of offenders on probation or mandatory supervised release and constitute a comprehensive and punitive scheme of supervision; (2) given that probation and mandatory supervised release have traditionally been regarded as punishment, and given that SORA now imposes consequences similar to probation and mandatory supervised release, it should be regarded as punishment. As to the third factor, whether the sanction comes into play only on a finding of *scienter*, defendant acknowledges that SORA does not require a finding of *scienter* and that whether SORA requires *scienter* or not is of little impact. Defendant further notes that the United States Supreme Court dismissed this factor as having little weight in this analysis. *Smith*, 538 U. S. at 105. As to the remaining factors, defendant claims that SORA provisions: (4) promote traditional aims of punishment, specifically retribution against sex offenders because it does not allow for individualized determination of risk to the community; and (5) apply to behavior that is already considered a crime. Defendant concedes that courts have uniformly found that SORA's have a rational connection to an alternative, nonpunitive purpose, and thus the sixth *Malchow* factor is not punitive. Defendant argues that the seventh factor is the most compelling evidence that SORA violates *ex post facto* clauses because SORA's burden on registrants is onerous, intrusive and is

grossly excessive in relation to the purpose of protecting the public from sex offenders. Defendant asserts that the punitive factors are not outweighed by SORA's legitimate goal of protecting the public, but rather provide the "clearest proof" that the amended SORA, which retroactively imposed new lifetime registration requirements on defendant long after his original registration period had ended, violates both the U.S. and Illinois Constitutions' *ex post facto* clauses.

¶ 28 We note that in *Smith,* 538 U.S. at 101-06, the United States Supreme Court, using the *Malchow* factors, found that several of the factors outlined above weighed in favor of finding that Alaska's SORA did not constitute punishment. The court rejected the comparison of Alaska's registration system to parole or supervised release, which have been regarded as punishment. *Id*. at 101. The Court found that the Act's effects led to the determination that respondent could not show, much less by the clearest proof, that the effects of the law negate Alaska's intention to establish a civil regulatory scheme. *Id*. at 106. The Court held that the Act was nonpunitive and its retroactive application did not violate the *ex post facto* clause. *Id*. With respect to the sixth *Malchow* factor, the court stated that sex offender registration and community notification legitimately served the purpose of informing the public for its own safety rather than punishment. *Id*. at 103. As to the seventh *Malchow* factor, the court noted that the question is whether the regulatory means chosen are reasonable in light of the nonpunitive objective. *Id*. at 106. The court found that notifying the public of a defendant's sex-offender status was not an excessive means to achieve public safety. *Id.*

¶ 29 The imposition of lifetime sex offender registration is more excessive in its impact on defendant, since he already completed a 10–year registration period without reoffending, and his

later conviction was for a firearm offense rather than a sex offense. The retroactive application of lifetime sex offender registration to this defendant appears more punitive.

¶ 30 However, we are in accord with the holding in *Fredrick*, and find that these facts do not persuade us that this case is distinct from our supreme court's precedent. *Fredrick*, 2014 IL App (1st) 122122, ¶ 58. Section 3(c)(2.1) still serves the purpose of protecting the public from sex offenders: it requires both that a defendant be previously convicted of a sex offense and that the prior sex offense now be one with a longer registration period. 730 ILCS 150/3(c)(2.1) (West 2012). *Id.* Section 3(c)(2.1) also limits its applications to defendants who have committed a new felony. *Id*. The fact that SORA did not require defendant to commit another sex offense before subjecting him to lifetime registration is an insufficient reason to now conclude that sex offender registration is punitive. *Id.*

¶ 31 We adhere to federal and Illinois precedent finding that sex offender registration is not punitive for purposes of the *ex post facto* clause. See *Fredrick*, 2014 IL App (1st) 122122, ¶ 61. We thus reject defendant's *ex post facto* claim.

¶ 32 2. Due Process

¶ 33 Defendant next argues that the circuit court erred in dismissing his petition and finding it was frivolous and patently without merit because SORA violates the due process clauses of the United States and Illinois Constitutions. U.S. Const. amend. XIV; Ill. Const.1970, art. I, § 2. He alleges that SORA violates his right to substantive due process because it infringes on his fundamental constitutional rights. He also alleges that it violates his right to procedural due process because it infringes on his liberty interests without providing procedural safeguards.

¶ 34 Substantive Due Process

¶ 35 When addressing a substantive due process claim, we must first determine "the nature of the right purportedly infringed upon by the statute." *People v. Avila-Briones*, 2015 IL App (1st) 132221, ¶ 71 (quoting *Cornelius*, 213 Ill. 2d at 203). If the statute infringes on a fundamental right, we apply strict scrutiny to the statute. *People v. R.G.*, 131 Ill. 2d 328, 342, (1989). Under strict scrutiny, the statute must serve a compelling government interest and be narrowly tailored (*i.e.*, be the least restrictive means) to serve that interest. *Cornelius*, 213 Ill. 2d at 204. If the statute does not impact a fundamental right, then we apply the rational-basis test to the statute. *Id.* at 203. Under the rational-basis test, the statute must simply bear a rational relationship to any legitimate government interest. *Avila-Briones*, 2015 IL App (1st) 132221, ¶ 71 (citing *People v. Boeckmann*, 238 Ill. 2d 1, 7 (2010)).

¶ 36 Defendant claims that SORA implicates his fundamental liberty interest in living without a lifetime of intrusive and burdensome government monitoring of all aspects of his life. Defendant argues that there is a fundamental right to be free from a lifetime shackled by a requirement that one must report the minutiae of one's life to the government. He acknowledges that Illinois courts have not recognized the right to be free from registration as a fundamental right, but claims that there is a fundamental right to be free from the type of registration requirements imposed on him by SORA.

¶ 37 Defendant cites *Weems v. United States*, 217 U.S. 349 (1910), in support of his contention that SORA infringes on his fundamental rights. In *Weems*, the defendant, a disbursing officer for the United States Government in the Philippines (the Philippines were a United States colony at the time), was convicted of falsifying a public document. *Id.* at 357–58. The defendant was sentenced to 12 to 20 years' imprisonment, during which time he would be "employed at

hard and painful labor" while "always carry[ing] a chain at the ankle, hanging from the wrist." (Internal quotation marks omitted.) *Id*. at 364. The court considered the punishment degrading and harsh. *Id*. The Court held that the sentence violated the Philippines' prohibition on cruel and unusual punishment, which, according to the Court, carried the same meaning as the eighth amendment. *Id.* at 365–82.

¶ 38 Defendant argues that a right against government surveillance is a fundamental right. But *Weems* did not involve a fundamental-rights analysis under the substantive due process clause. *Avila-Briones*, 2015 IL App (1st) 132221, ¶ 79. Instead, it involved an eight-amendment challenge to a criminal sentence. *Id*. Moreover, *Weems* involved a system of punishment far more harsh and intrusive than defendant's obligations as a sex offender. *Id*.

¶ 39 Our supreme court has stated that SORA does not affect fundamental rights. See *J.W.* 204 Ill 2d at 67; *People v. Johnson*, 225 Ill. 2d 573, 584 (2007). Illinois courts have only applied the rational test to challenges to the registration requirement. See *People v. Fuller* 324 Ill. App. 3d 728, 731-32 (2001); *People v. Beard*, 366 Ill. App. 3d 197, 200 (2006). Having found that SORA does not impact defendant's fundamental rights, we apply rational basis review. Rational-basis review requires us to ask two questions: (1) whether there is a legitimate state interest behind the statutes; and, if so, (2) whether the statutes are rationally related to that legitimate state interest. *Johnson*, 225 Ill. 2d at 584 (citing *People v. Adams*, 144 Ill. 2d 381, 390 (1991)).

¶ 40 Defendant contends that SORA is irrational because it lacks any mechanism by which a determination can be made as to a registrant's danger of re-offending. Defendant argues, it is "over-inclusive," in that there is no requirement that the triggering offense be a sex offense. At the same time, defendant argues that it is "under-inclusive," in that it does not necessarily encompass all those who commit acts which constitute sex offenses. Defendant claims that there

is no consideration for those who commit acts which constitute sex offenses, but who negotiate a plea to an offense not encompassed by the definition of sex offenses under SORA.

¶ 41 However, under rational-basis review, a statute "is not fatally infirm merely because it may be somewhat under-inclusive or over-inclusive." *Avila-Briones*, 2015 IL App (1st) 132221, ¶ 83 (citing *Maddux v. Blagojevich*, 233 Ill.2d 508, 547 (2009)). Although we recognize that SORA at issue may be over-inclusive, that is, it may impose burdens on individuals who pose no threat to the public because they will not reoffend, and it may be under-inclusive, that is, it may impose no burdens on individuals who pose a threat to the public because of a plea deal, it still has a rational relationship to protecting the public. SORA fulfills a rational legislative concern of protecting the public from sex offenders who have reentered the criminal justice system by committing further felony crimes. *Avila-Briones*, 2015 IL App (1st) 132221, ¶ 84; *Cornelius*, 213 Ill. 2d at 205; *J.W.*, 204 Ill. 2d at 67–68.

¶ 42 We find that the statute at issue here is a rational means to protect the public from sex offenders.

¶ 43 Procedural Due Process

¶ 44 Finally, defendant contends that SORA violates procedural due process. The procedural due process clause entitles individuals to certain procedures before the State may deprive them of a life, liberty, or property interest. *Avila-Briones*, 2015 IL App (1st) 132221, ¶ 88 (citing *Konetski*, 233 Ill. 2d at 201). "The fundamental requirements of due process are notice of the proceeding and an opportunity to present any objections." *Id*. But not all situations require the same amount of procedural safeguards. *Id*. Instead, we look to three factors to determine how much process is due: (1) the private interest that will be affected by the government action; (2) the risk of an erroneous deprivation of that private interest through the procedures used and the

probable value of additional procedural safeguards; and (3) the government's interest, including the function involved and the fiscal and administrative burdens that additional procedures would entail. *Id.*

¶ 45 Defendant contends that he has a fundamental, protected liberty interest in a determination of his future danger of reoffending before being required to re-register as a sex offender. Defendant states that a 2002 study by the Department of Justice found that 3.3% of sex offenders were re-convicted of sexual offenses within three years of being released from prison, whereas 24% were convicted of new, non-sexual offenses. Defendant contends that this data suggests that substantially more sexual offenders commit non-sexual offenses rather than sexual ones, when released from prison. Defendant suggests that these statistics prove that there are a substantial number of registrants who no longer pose a threat to society as sex offenders, and whose registry serves little or no benefit. He maintains that there is a deprivation of his liberty interest because SORA does not provide a mechanism to determine his future danger of re-offending before imposing a new lifetime registration requirement.

¶ 46 The United States Supreme Court rejected a nearly identical argument in *Connecticut Department of Public Safety v. Doe*, 538 U.S. 1 (2003). There, the Court held that Connecticut was not required to hold a "hearing to determine whether [sex offenders] are likely to be 'currently dangerous'" before requiring them to register. *Id.* at 4. The Court noted that Connecticut's sex-offender registration system "turn[ed] on an offender's conviction alone—a fact that a convicted offender has already had a procedurally safeguarded opportunity to contest." *Id.* at 7. This court has adopted the rationale of *Connecticut Department of Public Safety* when faced with arguments that sex offenders in Illinois should have an opportunity to show whether they are likely to reoffend. *Avila-Briones*, 2015 IL App (1st) 132221, ¶ 92; *People v. Stanley*,

369 Ill. App. 3d 441, 448–50 (2006); *In re J.R.*, 341 Ill. App. 3d 784, 795 (2003). That is because Illinois's system, like Connecticut's, is based entirely on the offense for which a sex offender has been convicted. *Avila-Briones*, 2015 IL App (1st) 132221, ¶ 92. A sex offender's likelihood to reoffend is not relevant to that assessment. *Id*. We conclude that defendant was not denied his right to procedural due process.

¶ 47 We find that SORA does not infringe on defendant's fundamental rights under the substantive due process clause, is rationally related to the goal of protecting the public, and does not violate the procedural due process clause by failing to give defendant a hearing on his likelihood to reoffend.

¶ 48 CONCLUSION

¶ 49 For the reasons stated above, we affirm the circuit court's dismissal of defendant's *pro se* post-conviction petition as frivolous and patently without merit where he did not allege the gist of a constitutional violation.

¶ 50 Affirmed.