



Registry Matters Podcast

Episode 156

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Andy 00:00

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Larry 00:24

Glad to be with you.

Andy 00:27

What do we have going on tonight?

Larry 00:30

We have a really spectacular program tonight. We've got... (Andy: Of course we do.) We've got a couple of submissions from prison. And we've got a doctored question from prison that someone sent and unfortunately, I've misplaced the actual submission, but it was long, long. And and, and, and very, took a lot of meandering detour so I put together what he was essentially trying to ask. So we've got that question. And we're gonna get it leads us into the deep dive we're gonna do on interstate compact transfers and revocation of probation. (Andy: Love it. Love it.) Violations of supervision when you're in a non-sentencing state. We're going to talk about that a little bit.

Andy 01:19

God your terms, it's your non-sentencing state once you put the words together, like non sentencing, okay, like, oh that makes perfect sense. But my small little feeble brain can't go, Oh, Okay, got it. I wouldn't be able to like, put that together to start. But leave it to Larry to come up with the good terms that describe something very concisely. You ready to go? Or do you want to cover anything before we get going?

Larry 01:43

Oh, let's let's dive right in. Because we've only got 20 minutes to be here tonight.

Andy 01:51

Oh, all right. Well, we'll we'll can talk fast Larry. First thing that we have coming up is a question that you you put in here and it says read first, it says:

Listener Comment

Dear Larry, recently, you responded to a Kentucky man's questions about driving commercial motor vehicles across country. I've provided a bit more information. And I hope you will least send this to the individual or print it in a future issue of the NARSOL digest. I pray you're not offended. And I truly only want to help yours truly. Thanks, Brian.

Larry 02:25

I am actually not offended. I'm very, I'm very flattered and appreciative of the work that Brian put into this. And it's a well written nice penmanship. And it, it probably is very accurate in every respect being that he has experience. I did respond back by letter that we wouldn't be able to send it to him, unfortunately,

because of the rules or correctional facilities have about acting as a conduit. And I wouldn't want our transcripts to be denied because of a perceived acting as a conduit between inmates. But I do have it and I'm trying to figure out how to incorporate it so that it'll be useful to people who were in that situation. And I do appreciate Brian sending it to us.

Andy 03:15

probably don't have to meander there for very long either. Right?

Larry 03:19

Nope, it was it was it was very thorough, if you look at it. There's almost three pages there that he wrote.

Andy 03:25

Right? But Alright, so then we'll move on to the second one, it says:

Listener Question

Gentlemen, saw your ad in my issue of the digest. I cannot use anything with the internet... Well, I mean, I can't use anything with internet capabilities, I would appreciate a free sample transcript.

Andy 3:35

Did this come from someone inside or someone out in the wild?

Larry 03:47

This is someone out in the free world. And, and I was a little distressed about that, because there's been so much litigation about a blanket internet ban, which means that this person, if he has a full ban with no internet access, He better be a really bad person that they can actually give concise, specific reasons for the total ban. And that's probably not the case being that Florida's is conservative as it is when it comes to how they punish people, I'm betting that they have a policy that their just applying to everyone. And I'd like to know more. And then hopefully we can if he hasn't already contacted the Florida Action Committee that would be a place to stop and see if this is one of the projects they're working on because they're looking at challenges and trying to raise funding for challenges and this may be something that they're working on already in the NARSOL affiliate in Florida, but but I'm very distressed to hear about he cannot use anything and that's pretty all-inclusive with internet capabilities.

Andy 04:56

Um, so a friend of mine just in the last handful of days was released, and he went and saw his probation officer for the first time. And the PO said that he's allowed to use it for work. And that this was like the funniest terms, essential home activities or something like that, which to me says something like banking or probably like job application things. But of course, they said no social media. But you know, that's not, that's not a full-on ban. And I know from my own personal experience that I've had pretty free rein even to like, you're like, you said to me, guy, you do whatever you want. And I mean, I had pretty free reign, and nobody bothered me. The only, so from my understanding of computers, which I'll just say, I know a lot. But for that, so if somebody was like the distributor, like the kingpin of distributing the naughty pictures and stuff, I could see them, hey, look, you

used your computer to commit all of the crimes, and then they would say, yeah, you can't use them. But I can't see why they would do it for everything for every other just Joe Schmo for all the miscellaneous crimes that people commit from urinating to even having a relationship with a minor that didn't require the internet to go about. So why do they then ban you from using the internet? Doesn't make sense.

Larry 06:16

Well, it doesn't, if you think in the terms that you're thinking in but you, you as most people have difficulty putting yourself in their position. And I'm not justifying their position, because I don't want to be in their position. But here's what they're faced with. There's things called cameras and news media. And if they start, and the last thing a bureaucrat wants to do is to have to make a decision that's going to be the source of a camera being in front of them. Because this is something that's very sensitive to the community. So, if you start deciding on a case-by-case basis, who should have access of what level of access when one of those people inevitably messes up, and they will, they absolutely will, we're human, and there will be people who will foul up, then in comes the cameras. How could you have possibly made that decision is the first question is asked because the person is a sex offender. And it causes outrage, and it causes a lot of phone calls to go to their supervisors. And in a state system, for example, it would be the governor of New Mexico's office who would get a deluge of phone calls after it ran on Channel 13, about how this person was granted access to the internet. And they did X, Y, and Z on the internet. It's easier, and it's safer, and they need safety. They need safety from community outrage, and safety from people screwing up. It's easy to say, if you've had a sex offense conviction, you can't do X, Y and Z. That is the safest thing from their perspective. That doesn't make it right. But if you think like they do, it makes it right.

Andy 08:00

Well then make restrictions. I know you guys over there have you can't leave the county and you have like 12 counties in the whole state. And I mean, it leaves you a lot, a lot of swath of territory that you can cover. But hey, so don't leave your house, don't use the internet and just watch television all day. There, ow everyone will be safe and don't have company while you're at it. Okay, well, now, nobody can offend for anything.

Larry 08:24

But you're drawing, you're eliminating the absurdity of what I'm telling you how they're how they're wired. (Andy: Yeah.) To them, it makes perfect sense. Because they didn't have to make a risky decision. How would you determine who would have access to the internet? I know you can start with the basics, they used internet for their crime. But it's only a person who used the internet for their crimes, the only person who's capable of ever misusing the internet, if that'd be the case, if that'd be the case, we would never have any internet crimes, they would have already all been committed. (Andy: Right.) So therefore, therefore, in their mind, they are being safe and proactive. And if they have these rules, then it's easier to violate people because the more rules you have, the more violations are likely to be... The more rules you have, the more violations you're going to have because people screw up. If you have if you have as many rules if you look at our behavioral contract here, one of these days we ought to put it up in the

program, all the things you can't do when you're under supervision. There's very few people that comply with all those, all the time.

Andy 09:38

Paul makes the obvious statement, says total ban is too overbroad. Yes, of course it is. And but I bet you if you go back to Episode 40-ish, you'll find where we covered a West Virginia Supreme Court I think decision that said you can't do this. And we covered these things in multiple places that you can't just say no you can't turn on and have the little bits go back and forth and do the modem sound. But so, this individual is experiencing this, and the answer I'm pretty sure you'll agree with is they can do it until they're told to stop.

Larry 10:13

That is why I want to find out if it's if it's uniquely tailored to him. Or if it's system wide, if it's system wide, there's a lot of leeway to litigate on that because of *Packingham*. And then the body of case law that has developed in other jurisdictions that have rested on *Packingham*. So therefore, I'll be curious to know and then if he's if he's been in contact with Florida Action Committee, what their position is.

Andy 10:38

Very good. So the answer here for this individual is contact FAC and see what kind of angles they have to assist. Is that the answer there?

Larry 10:49

Well, we're gonna we're gonna ask him to provide more information. And then and then we may contact Florida Action Committee ourselves, but I'm curious to know if if this has been tailored to him, or if this is just a blanket policy, and we're going to communicate that to him when we send him a copy of this episode.

Andy 11:07

And then Paul, actually, he says, they tried it with me and I went in federal appeals court, ninth district. So there would be another some level of what's the word providing, not evidence, but another court stating the same thing. What's that called? Precedent, thank you.

Larry 11:22

It's Persuasive Authority if it's if it's not in the same jurisdiction, if it's not binding. It's a precedential case only if it's in jurisdiction, but it's persuasive that you would argue it you say this is such a fine, brilliant analysis, that it applies here as well.

Andy 11:40

All right, then we'll moving on. This is a letter This came typed and it looks like it's on like a 1950s typewriter. It says:

Listener Question

Thank you very much for taking the time to respond to my letter with a date. I know you did not make any promises as what your author of the Legal Corner might have to say, but I find it encouraging, nonetheless. And then highlighted by you, it says I hope by now you've read the Texas constitutions Bill of Rights and

Articles bla bla, bla, bla, bla bla, and you can see for yourself how it is unconstitutional in Texas to enact retroactive laws.

Andy 12:12

Isn't that true everywhere, Larry?

Larry 12:16

Well, keep reading and then I'll explain.

Andy 12:19

Okay, it says:

Listener Question Cont.

They are void. Since registration carries a felony punishment for failure to register and submit civil commitment has similar felony clauses. These laws are also ex post facto in violation of both US and Texas constitutions. I would not be here if I was not forced to bend to the will of the legislature's new laws made retroactive. I want to be released. I want to be paid for my illegal incarceration for the past eight years, the state of Texas pays \$80,000 a year for false imprisonment or unlawful incarceration, do the math, I need help. I won't forget if it's you that helps, forgive me. But this sounds like almost one of those chain letters that you get from the Saudi Prince, and he's in prison and need some help just send \$1 and pass it along to your friends?

Larry 13:08

Sort of yes. Well, in terms in terms of your question, if you are looking at the United States Constitution, it is against the law to impose an ex post facto law, but the only the only laws that come within the zone of being ex post facto, are criminal schemes. Civil schemes are not covered. And therefore, his analysis breaks down. The Texas, now I have not analyzed the Texas constitution, now it is possible the Texas constitution could provide a greater protection than the United States. And we've talked about Maryland, for example, it says that the no disadvantage may be imposed after the fact. And that's been interpreted to mean civil disadvantages as well. But in the case, the United States Constitution, if he's going to rest on the US Constitution, it has to be a criminal law. And he seems to confuse the fact that you can be punished for not complying with the registry that that somehow makes the registry itself criminal. And it doesn't. There are dozens and hundreds, I mean, countless regulatory schemes that if you do not comply with them, it's a crime. And you can be criminally prosecuted. And I think in preshow banter I talked about registry for the draft. 18- to 26-year-old young men have to register for the draft. No one to my knowledge has ever argued that registering for the draft constitutes punishment. If you fail to do it, you can be incarcerated in the federal prison for up to five years. And you forfeit financial aid as a student if you can't certify and they cannot verify compliance with Selective Service. And in fact, it seems like to me that'd be a constitution claim because it only applies to young men. I mean in this day of equality, it seems like to me that you would have an equal protection clause. I'm required to register, I'm not because I'm older than Methuselah, but if I were young man, I would, I would, I would argue that, that, that, that I'm not being protected equally by the Constitution. That 18-26-year olds, only males have to register. That would be a potential argument. I don't know if it's been raised. I've not researched it, but but on his and then his final point, about \$80,000 a year, the incarceration has to be illegal. And if he's been prosecuted, legally,

and there is a law, I don't know how he can prevail on that. He's gonna have to find a Texas attorney that believes in his case, because he's clearly saying I won't forget who helps me. That's saying I don't have anybody, but I'll pay you out of my winnings. He has to find someone who's willing to go after this knowing that there's a likelihood of him getting the \$80,000 and at first blush, I don't see the likelihood of getting \$80,000 because the Texas registration scheme has not been declared punitive. Therefore, it doesn't violate ex post facto law. Therefore, his incarceration if he's either pled guilty or been convicted of it, is not an illegal incarceration.

Andy 16:10

I gotcha.

Larry 16:13

So.

Andy 16:16

What happens to this individual?

Larry 16:19

Well, he's got a logical mind to the point that that it breaks down when he says, just because it's it, you know, the same thing with civil commitment, he says that that's unconstitutional, because it's ex post facto, but by the very definition, it's civil commitment. Civil commitment is inherently constitutional. As far as I know, every single state in our union has civil commitment. The federal government has civil commitment for people, just to refresh people's memory, a guy named John Hinckley was civilly committed after attempting to assassinate President Reagan in 1981.

Andy 17:02

For like, 40 years or something? He was locked up for a long time.

Larry 17:07

Yes, he was. And that was a civil commitment, because he was found not guilty by reason of insanity.

Andy 17:12

But yeah, by reason of insanity.

Larry 17:15

And but that was a civil commitment. The goal of the regular civil commitment is to is to rehabilitate people, so you can release them. Now, the standards for rehabilitation, and we're taking a major detour, but the standards for rehabilitation for someone who has shot a president, as well as Secret Service, as well as DC police officers, that is going to be looked at far more carefully in terms of how much recovery has actually occurred, before they release someone like that. Someone who's gotten on top of a water tower, and threatened to jump and it's caused the closure of some streets for a couple hours, is going to get far less scrutiny than what John Hinckley received before he was finally released.

Andy 17:58

And he wasn't released until if at least after Ronnie died, and then even, he has been released, right?

Larry 18:06

Yes. Well, now there were several people had died. I'll try to do this from memory because I didn't actually plan to talk about this. There was there was Reagan and it was the Press Secretary James Brady. That's where the Brady Bill and all that stuff about gun control comes from. And then there was there was officers, I remember the name Delahanty and it seems like McCarthy and I think there were five total, I don't remember the other one. But many of those people are dead now. And by the time by the time they released Hinkley, Brady and Reagan both had passed.

Andy 18:42

Okay. All right. And so we're done there?

Larry 18:46

We're done there.

Andy 18:49

Cool. All right. Well, I guess this is now the time to roll up our sleeves and get ready for Interstate transfer kind of things. Right?

Larry 18:56

Fantastic. We've been down this road before we did.

Andy 19:01

It wasn't even very long ago. I was thinking about it when I was coming back from from activities today. It wasn't that long ago that we cover this. But it's always good to circle back around because this subject comes up all the time.

Larry 19:13

We didn't cover it in the detail we're going to tonight, but we have covered it regularly about interstate transfer.

Andy 19:19

Yep. All right. So let's start things off says:

Listener Question

I've been reading the NARSOL Digest for years now. And I do appreciate the work they do. Having said that, I do have one observation to make. Can't they find someone other than Larry to write the Legal Corner column? He's got to be the most depressing person anyone could ever meet. It doesn't matter how good the news is. He always finds some way to dash our hopes. He's a very strange individual, to say the least. I'm getting ready to be released on parole from prison here in Texas and I would like to live with my family in Mississippi. It seems to me that I have a right to live with my family since they can provide me with stability and transition assistance. I know Larry will have some wacky explanation that I don't have a right to live with my family, just wondering if you can let me know what I might expect. I don't bother referring this to Larry, if nobody else, Excuse me, I don't bother. maybe I don't mind if, if no one else can refer to this other than if Larry can respond, it seems to me that being in a supportive environment would benefit society. So transferring me to Mississippi should be a no-brainer. *laugh track* Why is this such a funny question Larry? You broke the fourth wall again, you broke the fourth wall. Again, I cannot get you people to cooperate with me. You're just supposed to roll on? Why is this a funny question?

Larry 20:45

Well it's funny, because it doesn't seem like he likes me. (Andy: I don't like you either.) And, and he believes that the greater good of society is what should guide the decision on Interstate transfer. And I just find that laughable in America, because we're all about the individual. Anybody who talks about the greater good of society is usually ostracized and accused of being some kind of socialist evil. And I think it's funny that magically when it comes to this, the greater good of society is what he wants to rest upon. But the so that makes it a little bit amusing.

Andy 21:26

Yes, I gotcha. So how if he wants to transfer from Texas to Mississippi, what should he need to know about this transfer process, and stop being such a negative person, by the way?

Larry 21:42

Well, I don't think I'm that negative, am I?

Andy 21:48

God is being is being a person knowledgeable on a subject and telling you how shitty and awful and challenging something is, does that make it negative? No, that makes it educated and spot on. And I know that we've received plenty, plenty, plenty of comments from people that saying that they would rather hear it straight instead of have everything sugar coated. Just the same with me and the attorney that I hired. Don't tell them, don't blow smoke up my rear end and tell me that things I want to hear. If you think it's impossible, then tell me it's impossible. But don't lie, either. Tell me tell me what we're in good shape or in bad shape,

Larry 22:22

It's actually a fantastic question. And we actually have discussed it in various bits and pieces numerous times. And we'll just get to bits and pieces tonight because this is a complex issue of Interstate movement. And there's a formal process for transferring people who have state-imposed probation or parole or any type of supervision, maybe CSL community supervision for life. But any type of supervision, there is a process through the interstate compact for adult offender supervision. But I will state off the bat that the person in prison is not the only one we want to deal with. There are people believe it or not, who don't go to prison, and they go straight to probation. So, I'd like to like to discuss the nuance about the people who don't have a prison journey and about the pitfalls of interstate compact as it applies to them.

Andy 23:20

All right, what are those?

Larry 23:22

The biggest pitfall is that a person may have visited a state and picked up an offense, they may have solicited a minor. Or they may live in a border state, across the border, right across the border, they may be running a sting operation like to catch a predator. And the person may drive across state lines to meet up with a would-be minor. And all of a sudden, they're ensnared in one of these interstate operations that's being done by the Sheriff's Department on the other side of the New Mexico border in Texas. And when they plead out the case, they made bond in Texas, went back home and worked for a year and a half, two years when their case was pending. And then when they when

they when they get a probation sentence, the lawyer tells them, I've got you a great deal. Oh, I got you a great deal. We're gonna grant you five year's probation, you're not gonna do a day of jail. And all you're gonna have to do is be on probation, you should take this. And the lawyer has no idea what they're looking at in terms of the sex offender supervision. But more importantly, they don't have any idea that that person, the minute they walk out of the courthouse and go over to the probation office, the probation officers tell them that you can't go back home. And they say, wait a minute. My lawyer told me I was gonna leave here on probation. They say, well, you are on probation. But um, but but but but you, you don't understand, I don't have anywhere to stay. They say well, that's not our problem. The Interstate Compact does not allow us to send you back there because that address may not be in compliance with that state's rules in terms of people convicted of sexual offenses. So therefore, before we can let you go back, we have to apply, there's special rule, a normal person, if all you've done is just sold drugs to kids on a school grounds, something like that very minor, you know, these little things that don't amount to anything, they can go ahead and give you reporting instructions and let you return home because you've got proof that you live at that address. But if you if you're required to register in either the state that convicted you or the state you're going to be living in, then you're classified as a sexual offender. And you can't go home until that investigation, and they're allowed 45 days, a lot of people don't have \$100 a night in their pocket, when they go do those please, the lawyers already cleaned that pocket out, and then they're stuck.

Andy 25:48

Are they're attorneys, do the attorneys strand their clients by not knowing the law?

Larry 25:56

They do, indeed. I have taught this at attorney training, and that you ought to see the looks in their eyes, when I tell them that there's this provision that the person's going to have to wait to be approved to live at the place they've been living in for 20 or 30 or 40 years. It's like mind boggling.

Andy 26:17

It is something spectacular. I tried to journey down this path I think a couple of times. well back to the person in prison, how can he or she get the ball rolling?

Larry 26:28

Well, let me stress that the process is all done by the bureaucracy, not the offender. And so each state has different ways of transitional assistance and different levels of case management in prison. So I can't give you a universal answer. You may live in a state where they have very, they have one caseworker that has 150 inmates and you never get to see the case manager. And but but theoretically, if if all goes according to the way it should, you would tell your case manager that you would like to parole because they do know that you're going to be released. There is some tracking of offender releases. And there's some level of service in all the states that I've been familiar with it may it may vary dramatically. But there are some I mean, they don't just hope for the best and let you decide when to leave. I mean, they do monitor the kick out dates, and there are some level service but you would you would talk to your case manager and tell them that

you'd like to live in Mississippi, and ask them to submit the paperwork. And there's a process that they go through filling out stuff online in an electronic system, they would submit it to Mississippi in this case and ask could you live there. It would have it would include a proposed address. And as much information about you there's a whole list of things that they have to put in the packet and they would send that electronically in Mississippi and Mississippi would check it out and determine if they're going to accept you or not.

Andy 27:59

Raidersfan in chat says Yep, that's why you get the attorney to stipulate it in the actual judgment and sentence. I don't think that that helps you because you the judge can say it all that all he wants to from from Wisconsin, and then you move to Wyoming wherever Minnesota I don't care if they don't allow those rules where you go. So, the judge can say it all he wants.

Larry 28:22

Well, I mean, he's making sentence, that's what I tried to train the attorneys to be on the lookout for is that. But the problem is the judge across the state of Texas can't bind New Mexico. And the compact is an agreement. It's like a treaty between states and would normally between nations be referred to as a treaty. But just the states have agreed that this is the process. So therefore, the judge cannot override the compact, and order that the person be allowed to live there. A Texas judge cannot order New Mexico probation to allow a person to live in violation of New Mexico law, for example. Now, we don't have statutory Exclusion Zones here, but some states do. So, our state probably wouldn't be the best. We only have policies where people under supervision can't live within 1000 feet. But there's no statute. But a judge in Texas couldn't tell Oklahoma, that you disregard your 3000 feet, I think it is, restriction and you let my offender live there. That judge judge in Texas, Texas doesn't have that authority to bind Oklahoma. Now what the judge can do, what the plea agreement can do would be say that, that if the if the if the person can't live where they've been living, then that that that provides opportunity for withdrawal of the plea because the plea is contemplated on them being able to live where they've always lived. And magically, magically, if you put that provision in there, the prosecution in Texas will get on the phone and they will try to figure out a way to make it happen because they don't want that plea to be withdrawn.

Andy 30:00

I can understand that. All right. But yeah, I mean, so you know that the judge in state A does not have jurisdiction over state B. And so what you just said is, then if you make sure that that is a condition of you accepting the plea, then that will potentially get the DA to arrange that this is going to work out. But then how does that apply to the destination state accepting it when you actually then make it back to where you came from?

Larry 30:29

I kind of got confused by that question. When you make it back...?

Andy 30:33

So you started your you live in, you know, Arizona. So that's, that's state borders you, and you hop on over to New Mexico and do the bad deed, and you are then arrested, and you take a plea deal that

and you get it to coordinate that says, when you get back to Arizona, that you can live in your you know, pearly white gates. How do they, how do you get the exception to be applied that when you get to Arizona, they don't say, nevermind, we're not going to do this, because this comes from New Mexico, and they don't have jurisdiction here.

Larry 31:04

Well, that's exactly what they're going to say.

Andy 31:10

So it's a bait and switch. I mean, you took the plea deal, then, based on Yeah, hey, we called them we talked to them in Arizona. They said everything's hunky dory. Great. I'll sign the paperwork. And back to Arizona, they say, Sorry, you can't live here.

Larry 31:22

Well, well, what I'm saying is, though, it's a part of the plea agreement with Texas that if Arizona will not let the person live there, that that's grounds for withdrawal of the plea. You're gonna have a hard time getting someone to agree to that. A prosecutor is going to have, prosecution, the defendant would be happy to agree to it, but you're gonna have a hard time getting a prosecutor to agree to that because if I'm a prosecutor, I'll say, Judge, I can't control what they do out there in Arizona. I mean, he's gonna deal with that himself. I, all I know, is that, that if he lives here, these are our rules. He can live here if he wants to. But if he wants to go back there, he's going to comply with their rules. But that's the only way you can really protect yourself is if you can get a plate that allows you out if you're not allowed to live there. For example, maybe you've had a disabled loved one, you had to care for them. They've been in the place for two years. And, and it's 996 feet away from a school and the rule is 1000 feet. It is possible that Arizona could give an exception if it's merely a policy rather than a law. But if it's the law, theoretically, there's no exception. I mean, you and I know there are exceptions. But if you can't ask another state to allow an offender to go there and be in violation of the law, that's not reasonable.

Andy 32:33

Yeah, yeah. And then if you did end up on your home state soil, and they didn't like it, then you're allowed to go back to you can just say, hey, nevermind, and you can go back to where your crime was then committed. So you go back to the state that you're not familiar with. But you still don't have any place to live. Now you're a person that doesn't have a home.

Larry 33:01

That unfortunately happens.

Andy 33:06

That sucks. I'm just, there's a movie with Tom Hanks called I can't think of the name of it. He's in that he's in the air. He's doing international travel. It's called terminal. And while he's in the air, there's a revolution in his country and his country like ceases to exist. So then he's stuck in immigration. And he doesn't his passports no longer valid. So now he's just stuck in the terminal. Because he doesn't belong, where he came from, like, that's some bullshit.

Larry 33:33

I remember that. He's not a person anymore.

Andy 33:36

Right? He just now like, how you can't make it through immigration, and you can't go home? What do you do? You just live in the in the terminal? I guess? At least you're not paying sales tax on everything. Right?

Larry 33:47

Well, wouldn't you be paying tax in the terminal?

Andy 33:50

I think it's duty free. I'm not saying that this is a reason to go there. Because usually everything is incredibly expensive. I guess let's move on to who sets the conditions of supervision and which registration requirements control? God this question always, always kills me, Larry, I think a person only has to register once per year in Texas, and everyone registers quarterly in Mississippi, can you help me and everyone else understand this?

Larry 34:20

Well, it's easy. The registration scheme Since it's regulatory in nature, it will be in Mississippi will be the controller whatever state the person lives in. So they could care less about if you had a 10 year registration period in Vermont or Texas or once a year that is of no use to them. It will not come into the equation. So you register in conformity with the requirements, just like you would when you take your clunker vehicle from one state to another, you'll pay the registration fees based on whatever their formula is. They'll inspect it based on whatever their standards are for safety and auto emissions. And you'll comply with that state. That's the same thing on registration. The registration on where you would have been had you not transferred, you need to leave that in the rearview mirror.

Andy 35:11

But probation, your supervision requirements may come into play, where you go.

Larry 35:18

they absolutely will come into play where you go. Your supervision requirements will be controlled by both states. Now let's clarify, the duration of your supervision is controlled by the state who imposed it on you.

Andy 35:35

Okay, so that's where your crime was committed.

Larry 35:39

So that's correct. So if you have 10 years of supervision, when he leaves Texas, he'll have 10 years of supervision, when he gets to get to Mississippi, that will not change. The conditions that Mississippi, either through the parole board or through the court, those conditions will follow him to Mississippi. In addition, Mississippi is allowed under the interstate compact, to put special conditions on him that were not given to him in Texas. They may have, they may be completely something that Texas doesn't do. And it will not enlarge the period of his supervision. But he might have... in Texas, he might not have had a curfew, he may find himself in Mississippi with a curfew because that's what they do

for people who have that type of conviction, they're allowed to do that, as long as it's consistent with how they would supervise the similarly convicted offender in their state. So they can add the special conditions, consistent with how they supervise their offenders with similar convictions. They can't just build conditions so that you want, your desire will be not to move there. But the conditions that they typically, if you could have traveled all over the state of Texas with with no travel permit. And only if you're gonna leave Texas, you do need a travel permit. If you get to Mississippi, and they say you can't leave the county without a travel permit, that is what controls you. Whatever they require there is what is the conditions are they allowed to add to what came with you, but the conditions that are imposed in your sensing state, they follow you, they don't go away. And that's what too many people, they, they, they, they've they've been in prison, and somebody was there from one of the more progressive states and they hear that, that that things are not so bad there. And they say, Well, I'm gonna want to move there. And they, they move there. And then they get they get there. And they say, Well, people here get three-year supervision. I've got five to 20. And Yep, guess what, you still have five to 20. But but but this, this is not fair to me, I was convicted. And you guys are treating me... No, we didn't impose this on you. We're just simply acting as an agent for the state that imposed it on you. You have that you have that period of probation, that period of parole, we don't have anything to do with that. And then they think that the conditions that were imposed to them, don't follow them. But the interstate compact, it's clear that the conditions do follow you. Now I can't tell you that humans, if you get to a state, they find something shocking in conscience that they just wouldn't impose that I can't tell you that they're gonna, they're gonna, they're gonna vigorously enforce conditions that they think are ridiculous. But they're technically obligated to.

Andy 38:30

Can we noodle around that for a minute that they're, the way that I sort of tried to understand it is that the state that you are now moving to, they are doing the state that you came from kind of like a favor, and you know, hey, so one person moves from state A to state B and somebody else moves state B to state A. So hey, look, I scratch your back, you scratch mine, but they're kind of doing a favor to then take over the supervision for the state that is sending the person. Is that fair?

Larry 38:58

That's completely fair. That's what they're doing.

Andy 39:02

So if they want to, as you were just describing, if they have much more strict requirements of, of supervision of checking in, of how often they check on you, then that's their prerogative to do that in their state.

Larry 39:21

That is correct. And you cannot go back and complain and say, Well, what I was in Vermont, they only came out every three months. They will say, Well, you know, you could have stayed there.

Andy 39:34

Ready to be a part of Registry Matters, get links at registrymatters.co. If you need to be all discreet about it, contact them by email registrymatterscast@gmail.com. You can call or text a ransom message to (747)227-4477. Want to support Registry Matters on a monthly basis? Head to patreon.com/registrymatters. Not ready to become a patron? Give a five-star review at Apple podcasts or Stitcher or tell your buddies at your treatment class about the podcast. We want to send out a big heartfelt support for those on the registry, keep fighting. Without you, we can't succeed. You make it possible. All right, well, then, we've talked about this a whole bunch of times, are you saying that a person doesn't have the right to live in a state of his or her own choosing? Part of the beauty of the United States is that we have the freedom to move about and like state borders, kind of like don't mean anything, you just Hey, let's just go to Chattanooga for the weekend, and we just go up to Tennessee, like we can't just move about with that freedom?

Larry 40:50

Not while you're being punished, you can't. You've lost some of your rights while while you're serving, you're paying your debt to society. And the freedom of unlimited travel is one of those freedoms that's curtailed, you'd have to acknowledge that supervision becomes more and more difficult as the person moves out from the zone of the supervising authorities. Therefore, therefore, the mobility is very limited. In some cases, the supervising authorities provide a lot of freedom. I've said that, remarked that over and over about your supervision, but but it's it's not a right that you can assert. You were getting privileges.

Andy 41:31

Right. and I and I always like greatly appreciated them. And I would only ask for them when I needed them. And I wouldn't ask for anything else. And I tried to stay as far away from them and always comply just to keep them off my ass as much as possible. So they were like, Nah, man, this dude's perfectly fine. We don't need to check on him. Everything's great. hunky dory. Ah, okay. Um, I recall you saying that many of the states impose a fee for submitting the application. Is that true? It's 45 bucks. No, we're not 45. But it could be like 250 I think.

Larry 42:02

you're right. That was the high one. And I've got a chart. And it's available on interstate compact for adult offender supervision's website. There's a fee schedule. And I last pulled it in 2017. And I can just about guarantee that none of the fees have been reduced. Some of the fees could have been, have gone up because states are struggling for revenue. And the states that believe that you can't raise taxes for any reason whatsoever, they look for ways to fund government. And this is one way to pass it on to the offender or their family. So the the fees are in some states zero, and some states as high as I think \$250, \$300 it, you just have to figure out. And this particular case, I looked at it and it doesn't appear that Texas charges a fee. Now, if he were going the other way, Mississippi does charge a fee for application, but Texas does not so he will not have to pay a fee. Unless that has changed since my last schedule was pulled.

Andy 42:59

Interesting. And this again, kind of puts somebody in a pickle that the person is not from this state where he is currently residing. And to get out, the person potentially has to pay a fee for this particular case, no for this person in Texas, no trying to get to Mississippi. And so now they're putting out money potentially for a hotel, they've had to hire an attorney, and now they also have to throw in some order of a couple hundred bucks to try and get out of where they don't want to be. And it could take them some 45 days to get out of there? Isn't that a catch22?

Larry 43:34

it is a catch22. So you get to pay for the for the privilege of of having your application. Now, of course, to the extent that I could influence public policy, if I were a corrections official, I would always testify before the legislature, we want to never have a fee, we want to get rid of just as many as we possibly can. That's not that's not the universal attitude. So you get your you have to pay a \$250 fee. And in some instances you're spending anywhere from I guess you can still find cheap hotels in the \$59 to \$79 range, but you're probably paying \$100 a night for a place to stay. And you're anxiously awaiting and since the proposed state has 45 days, and they do not generally want an open door to out of state PFRs. They're going to take a lot of that 45 days if not all of it. So you could, you could be doing this for some time. And if they turn you down, you're back to square one. You have to you have to come up with a new plan and deal with Why they turned you down. If the residence was not a conforming residence, you've got to find something else so you could be stuck while you're looking for another residence. Remember, you don't live in that state because you're stranded in the state you didn't want to be in you're not connected to. So you've got to find a residence that complies and you've got to be able to fund that while you're funding the one where you're waiting. You have to admit that that's bizarre.

Andy 45:04

It's definitely bizarre. And now you're stuck like Tom Hanks in Terminal where you don't want to be where you are, and you can't get to where you want to be. And you're just stuck in the twilight zone. Hey, but Charles and Chet just really like I had never considered this and only a person like you, Larry would consider this. Many states house their prisoners in other states? What happens here? I mean, you're, now you're not even. I mean, I guess you've been released. But now you're potentially not even in the state where your conviction occurred? Or would they transport you back to where you came from where your conviction occurred? Before they open the gates on you?

Larry 45:41

It would be my guess. Now, that's such a great question. Even I haven't thought of that. But he is correct. There are states who don't have adequate prison capacity. And they end up borrowing, not borrowing they pay for it. But they end up they end up bartering and paying for for prison capacity in other states. My guess is the same as yours, what I would think they would do is when when they're holding someone from another state, when the authority to hold the person ends, they would they would return them to that state. And that would become that state's problem, what to do with them. But I don't know that to be a fact I would have to I'd have to do some queries on that if you're serving a Vermont sentence. And I think Vermont is one of those states

that doesn't have much prison space, so they will send people to other states. When you're at the end of your sentence if you have a post-prison supervision period, how do you facilitate that movement to the community? Do you go back to Vermont to be kicked out? Or do you get kicked out from whatever state you're in if they've got you down in West Virginia?

Andy 46:39

You know, and suppose it's like, you know, doesn't Alaska house their people? I mean, one way the other people get housed in Alaska. Doesn't Alaska, like use New Mexico for housing capacity?

Larry 46:50

I never heard that one.

Andy 46:52

But I mean, Alaska being the vast wilderness that it is, your prison could be 10,000 miles away from where you want to be. That would be Oh, my God, I can't even imagine you would be so far from home. And it's not like you could just sort of like hitchhike or, you know, take a bus. Oh, my god, you're practically in another country. I'm pretty sure Alaska either houses people. Either way that this works, either they are housing people, or they are housing people elsewhere. That would be diabolical.

Larry 47:24

Well, if Alaska is housing people for other states, that would be very cumbersome for those people to be moved back and forth. I would doubt Alaska is housing prisons for other states.

Andy 47:36

But I god I think they're housing their people elsewhere, either way, and then count the temperature and and you're obviously not getting visits, if that's the case, either. All right. Well, let's move on. Does it make sense to call the probation parole authorities in the location where you would like to go and ask them all the questions of, Hey, can I live here? Can I live there? Is there any place pre-approved? What can I do? I made a call like this.

Larry 47:57

intellectually, it does make sense. But unfortunately, the reality is, most supervising authorities are not trying to bring offenders into their, to their states, particularly those forced to register. Therefore, I don't think at the cooperation level is going to be magnificent. And if you have an inside connection, if you have an outsider, first of all, getting a call out from prisons can be very difficult to call a probation, a supervising authority. But if you have an outsider and they have, they have a repertoire or some sort of relationship and standing in the community, you might find someone that will talk but there's not people just sitting down. There's no state jobs here that I can think of where their job is to sit and entertain interstate transfer requests and talk to people. There is an interstate compact office in every state. And theoretically, they can answer questions, but they are answering questions from the states themselves, not from the offenders. And when you call them, they can be a little bit snarky, because they don't, they don't deal with individuals, but people do resort to calling interstate compact offices. (Andy: Have you ever talked to them?) Not in the capacity of one and get my supervision but I've talked to them several times. We had we have an interstate

compact in the practice of law office officer in Oklahoma, excuse me, in Pennsylvania, that was not understanding of why he couldn't move an Oklahoma offender out to New Mexico because he was within 996 feet of a school, and literally that's what it was like 996 feet of a park, not a school. And his offense was not with a human it was with an animal but Oklahoma required him to register and he couldn't understand why that that that the person had bought a home and he couldn't live in the home he had bought in and and so he and I talked together we finally figured out how to resolve that impasse, but but when you call as an offender, they're gonna tell you to have your probation officer submit the application.

Andy 49:54

Um, oh, okay. Um, okay, so when I call Yeah, and the names of, is it always the ICOTS office, because when I placed these calls, I would get all kinds of Nope, you need to call this people. Nope, that's not this place. You need to call these people. Nope, not that place. You need to call these people. Is it always called like, the ICOTS Office of Oklahoma or Arkansas or Minnesota? Is that always that or is it handled by the the police barracks, whatever it is in Pennsylvania and like, is it a unified office naming?

Larry 50:28

Well, the the the administrative arm is usually in the capital of the state if they have an interstate compact office that that manages the state. But But all that goes out to field offices. When Santa Fe gets an application from Oklahoma, or from Arkansas, or wherever it comes from, the people in Santa Fe don't investigate it, they send it to the field office that's in the region of where the person's proposing to live and the field office does the investigation to go out meet with people. They determine the proximity of things that would that would create a problem, the background of the people who would be living in the home. Are there guns everywhere. Are the people going to be compliant. Do they have criminal background, I mean, when you when you're applying to live with people, the people that you're going to live with come under the scrutiny of the corrections authorities, they're going to be coming in and out for home visits. And they're not going to be too keen on coming up with a house full of guns.

Andy 51:22

I'm just picturing some dude in an office waiting for phone calls with a vacancy sign out there. That's what I pictured for the ICOTS person.

Larry 51:29

So but yes the archives people are going to be dealing with the supervising officers more than offenders. But I can say people do call in some do get reasonably, do engage in reasonably good conversations. But there's administrative arm of it the field offices are where the investigations are going to be done and a probation officers going to come out in most cases, and investigate the proposed residence and the people who occupy that residence?

Andy 51:57

Is it likely do you think that Texas will not let them apply to move? Or do you think it is likely that Mississippi will say no?

Larry 52:06

I'm not really on the inside of Texas, in terms of how many offenders they would want to get rid of, I'd want to get rid of all I can. But that's just me. I don't understand, that's a no brainer when you talk about no brainers. To me, if if you can get another state to supervise your offenders, you've really won, you've won the lottery there. So, I would want to get rid of as many as I could.

Andy 52:30

And your reasoning there is if we have no registrants, known registrants PFRs in our state, we have no chance of any of them reoffending. I mean, that's the logic there is pretty sound.

Larry 52:44

I want to get rid of all the offenders. I'm putting myself in... I don't want the the guy who wrote the criticizing email on YouTube last week to understand this is, I'm putting I'm putting myself in the position of an administrator. And I'm thinking exactly like they would logically think. This is not my personal view. But if I'm holding the position of Secretary of corrections of the state, my policy in that role is going to be I would want to get rid of all I could because the more offenders I have in other states, the more offences are going to be occurring there. That is absolutely a no-brainer. Statistically you cannot argue with that. So so I do not know what Texas policy is. But I know I know our state, they try to impede movement, both in and out. There's something about them where they want to hold on to offenders and they don't want to do the paperwork. I don't know if it's if it's for budgetary reasons, if they can justify more full-time equivalent positions or what, but Texas probably will not be the impediment he will probably have more issues in Mississippi because Mississippi has an extremely strict registration scheme. They have driver's license markings. They have they have, as far as I remember, exclusions zones, and he's going to have whatever he proposes to live in Mississippi is going to probably not comply. So I suspect he's if he gets if he gets past Texas, he's going to have problems in Mississippi because there's so many barriers that they don't even have to look hard when you have a state that doesn't allow you to live anywhere. And you have to jump through all these hoops to find a place to live so he'll probably be denied because his residence doesn't comply.

Andy 54:27

Do you want to stick around that for just a minute and talk about how really atrocious Mississippi is as hostile to PFRs.

Larry 54:38

Well, we can for a little bit it's it's it's not a place, the south, the Deep South is generally not place you want to be. Mississippi is one of those states you don't want to be. We had the registry officer and I won't name What county because if he's still there, it could cause him problems but a registry director for one of the counties that Mississippi contacted NARSOL a number of years ago and he said, I don't understand why you people don't come down here and litigate. He said, I have such ridiculous rules I have to impose on these guys. And said I'm having to charge them fees for getting an ID every 90 days. And everybody, regardless of your offense, they have three tiers. But all three tiers coming in every 90 days. And he said, that's just a total waste of time. He said I got people on my list, he said, there's only a fraction of them I have any concern about and he said, but I have to have them process

through here every 90 days, they have to go redo their ID, they have to get their specially marked driver's license, and it's just not a place you're gonna find a lot of happiness in Mississippi, it it would not be my first choice of places unless I had no other option.

Andy 55:46

Can you put on your legislator hat for a minute and come up with a rationale for them making it so awfully bad atrocious for this, like, you could look around at your other 49 state peers and see what works and doesn't work, but to just put the screws to people just because you can, I can't really see how it makes much sense to put all that burden on the administrative side of the registration office to try and handle all of those people constantly coming in every three months.

Larry 56:21

Well, when the Adam Walsh Act was passed with the recommended changes, it required a lot of analysis to figure out how to do it correctly. And what I said early in the podcast about people don't like to take risk, and so trying to figure out which offender belongs in the tier based on the offense and the nuances of the offense. Because the age of the same offense can be a tier, a different tier, depending on the age of the victim, you can have the exact same title of the offense. But if it's a victim under one age, it should be a tier three, if it's a victim over that age, it can be a tier two. And my guess is that the Mississippi legislature doesn't have a lot of brainpower, they're probably a part time like ours. And the law enforcement put this scheme together and said, This is what we need to do to be AWA compliant. And they have been deemed substantially compliant with AWA. And nobody gave a lot of thought that when the proposal was presented, there was no one in the room that had any objection, when it went through committee process, then it looked pretty good to everybody. And trust me, if there's no objection to something, if there's no constituency, no advocates of any type opposing, it is wishful thinking to think that a committee having heard a piece of legislation as it's been proposed as written, and nobody has raised any alarm bells about it, it is completely wishful thinking to think they're gonna turn that down. They're gonna say, oh, even though nobody has any problems with it, I do. It doesn't work that way.

Andy 57:58

Let's assume a person makes it through the hoops and is accepted. He or she picks up a violation of supervision in the new state. What happens? Do they just extradite them? And what happens from there got this. This, this friend of mine that I was just talking about this happened to him, it's just all the way around shitty.

Larry 58:18

This is one of the most misunderstood components of the interstate compact. The the person is actually not subject extradition, because they've already waived extradition when they agreed to be supervised in a state other than the one they were they were convicted in. Of that massive amount of forms that you sign, one of them is a waiver of extradition. So, you're not, extradition doesn't even come into play.

Andy 58:47

Okay, why not?

Larry 58:51

So well, if it's not an extradition, what the hell is it?

Andy 58:55

Right, if Yeah, exactly. What is it if it's not extradition?

Larry 59:00

Well, that's it's actually a retaking, which is different from an extradition.

Andy 59:08

Okay, and so you always get hung up on semantics and terms and you want to be hyper specific. No wonder people get so frustrated with you. What is the difference between extradition and a retaking? You still get hauled back to the original state? So what's the difference?

Larry 59:26

Well, there's a big difference. An extradition, I mean you're right. You do get you do potentially get hauled back to the state. An extradition can fail, and a retaking can fail. But the scope of an extradition inquiry is so different than a retaking. In an extradition, you have a fugitive demand of of a sovereign saying we want our alleged criminal back. And so that's the demanding side of it. That's the demanding state and you have a place where the fugitive is hollod up, that's called, that's called the asylum state. And the demanding state only has to prove two things to get that offender back, they have to prove that, that they're that they're seeking the return of the right person, and that they've put the paperwork together correctly, to execute that demand. That's all the due process you in an extradition. And if you're subject to a retaking, you have the right to a determination before a neutral detach hearing officer, that probable cause exists to retake you that you violated a, I forget what the word is. It is it's a, it's a serious violation, you have to violate a condition of supervision. And it has to be serious enough that had that violation occurred by someone who was convicted in that state, that revocation would be thought of that individual. And so if a person violates curfew, and they wouldn't normally seek a revocation in Georgia. Georgia cannot try to force a revocation from an out of state offender for that. So it has to be a significant violation. And you're entitled to a showing of probable cause in a hearing before you have to go back to the state that you were convicted in. So if I had my choice, where I could only contest my identity, or if I had a choice of having to force the probation officer to put on evidence showing probable cause, which would you choose?

Andy 1:01:31

I would certainly rather the retaking versus the extradition.

Larry 1:01:36

So that's the difference. So that's why the semantics are important. Anytime you violate supervision, and you're not in the state... when the attorney comes to talk to you and says, You should just waive extradition, that attorney is not qualified to represent you. Because the first thing you need to tell them is I've already waived extradition before I ever got here. This is not an extradition, this is a retaking, and I'm entitled to determination of probable cause in this state before I have to go back to my state of conviction, to the sending state as is referred to in the compact. And if your attorney says you're not entitled that. That is the

wrong attorney. Now I realize if you have a public defender, you're going to have to make that argument somehow directly to the judge, but you're entitled to a probable cause determination. And go over that with lawyers. Well, that would be a convened hearing, where the probation officer would put on evidence of what the violation was, you're entitled to notice of the date of the hearing, what the alleged violation is, and some kind of scope of what the evidence is. A witness list of what they're going to use against you to establish the probable cause. And you have the opportunity to call witnesses to cross examine their witnesses. It's a regular adversarial process, unlike the extradition, where they're showing a proof of identity. And the judge asks is this you Andy? I'm looking at this picture here. It looks a lot like you. bailiff, take his fingerprints, let's run him through IAFIS and see if it's the same person, I mean that's the issue that that's the scope of the inquiry for the extradition. But for this, does it really rise to the level of being a significant violation of supervision and is there at least a showing of probable cause that you... it doesn't require, remember, it never requires proof beyond a reasonable doubt to revoke your supervision because you're already convicted. But there has to be some evidentiary process and some confrontational process allowed. And without that, you can't be forced to return to the state that that convicted you and they hand these people these things to sign all the time to waive extradition. It is wrong, because the only way you're actually supposed to be able to waive your retaking your probable cause hearing and retaking is to admit to one or more violations of supervision as a part of that waiver. And you would never want to admit anything unless you want to be revoked. If if the state is willing to come pick you up and take you back. The chances are real good, you're going to do some some jail time, at least if not going to prison. If they have to incur expenses to go to Florida to pick you up to take you back to Oklahoma. Even though it's the extradition, the transport company, somebody needs a little bit of skin out of you for all that trouble. So you don't want to go back there and have that revocation hearing because when you get back there, they're not gonna they're not gonna care that you didn't have probable cause hearing. They're gonna go want to go straight to the revocation. And you're going to have a hard time arguing about your probable cause determination because the officers that would have testified at probable cause hearing, they're back at the other state. They're not going to be there. And, and so you're gonna end up in a revocation and what they're going to offer you as some kind of deal to admit to the violation. And they're gonna make it sound really sweet. So you'll sign off and admit to the violation without them having to bring witnesses in, because if you don't admit they are going to have to put on some evidence. And it's not necessarily the strongest evidence as they'd have to put on, if you were if it was a trial on the merits, but they're gonna have to put on some evidence of the violation, which is usually your admission.

Andy 1:05:32

Does the interstate compact include out of state offenders from US territories such as Puerto Rico or other countries or just the 50 continental states?

Larry 1:05:43

I believe the territories are included, but but not other countries. But I think the territories are included. I don't remember what's all on the list. But there's a list of the back of the of the of the bench

book on the website, and it has all the states that have have have, and I think the territories are listed

Andy 1:06:00

Back to the extradition, retaking, but how does this happen? How does the court not know what process should be afforded the individual that has done whatever level of violations they have done?

Larry 1:06:12

Well, that that is a that's a great question. And the reason why the court doesn't know is because the court doesn't assign the case numbers that causes things to come before them. So in some cases, like in our state, you just languish, you know, you don't ever go anywhere. So if a probation officer arrests you here, since they can do warrantless arrest, they can take you on a custody on issue, what's called a PV hold, and then nothing happens. You just sit and sit and sit, because there's not a local case attached to you. Your case is from out of state. But, but, but in states where they do a little bit more correctly, if they if they lodge someone in custody, they have to generate some kind of case number. And often what they do is they open a miscellaneous fugitive demand case, and it looks like to the to the court that that's exactly what it is. So the judge when he or she opens the file, they open up a file, and it's got that case coding, that's a fugitive extradition demand. So the first thing they ask is counselor, does your client want to waive extradition going back to Arkansas, and, and the person sitting in jail, and, and jails always look better than one you're not in most of the time anyway, because nobody wants to be in jail, but think about that way, when you were in custody, how many times people waived, wanted to get to a different jail because it was going to be better?

Andy 1:07:36

I could tell you we were watching a TV show of like a prison in Michigan and someone had a you know, a one person cell and they had a piano in there like a you know, electric keyboard. I was like, I need to be there.

Larry 1:07:48

So well, anyway, people people find themselves in these dungeon jails. And they, they they just go ahead and agree to go back and they waive. They waive their their due process. And they sign the extradition. And as far as the court is concerned, since no one's raised an issue. The offender doesn't know that it's not the correct process. Neither does the lawyer. And the case looks like an extradition so so the person signs their extradition, the state's notified that they can come pick the person up. And that's the way it happens. All too often. People people get hauled back. And they shouldn't have, they might would have been able to extinguish the violation if they had pushed for a probable cause determination. And it's so so sad but happens all the time. Tell me about your guy. What happened with your guy that that you said that this happened to.

Andy 1:08:36

I, I'm I want to be as as loose and abstract as possible. But what I understand is that his brother brought by his kids to like to see his parents, so he was saying it with his aunt and uncle. And that caused the violation. That he was near children. And I'm pretty sure they extradited them, he paid some large sum of money for

to have an attorney represent him. And I don't know quite all the details beyond that other than him paying for an attorney. And I mean, maybe that was he was trying to do the due process thing to try and defend himself. But he ended up and then maxed out. They brought him back to Georgia and he finished out his sentence and spent another additional two years locked up.

Larry 1:09:24

So he but he did hire. Where was he supervised at Texas? (Andy: Yes.) And he hired an attorney in Texas to try to to defend him on the on the retaking?

Andy 1:09:35

I believe so. Yeah.

Larry 1:09:37

It'd be curious to know if that if the lawyer called it an extradition because that would tell me that the lawyer probably didn't have the proper preparation and understanding if he referred to it as an extradition.

Andy 1:09:47

I have, I have prepped him that he might be a guest for you to inquire about to see what went down and try and do further, you know, not not specifically for him because this has already passed but to educate For the future of people that may end up in this condition.

Larry 1:10:03

So well, it's it's all too common.

Andy 1:10:07

Yeah, I can only imagine because none of us know this crap. Larry, like none of us, we almost need to have some sort of like Internet bot run around and catch people that are on a blot or somewhere that has done like a revocation that we can then try. I know this is impossible but try to reach out to to try and advise them. It's impossible. Yeah, no kidding. Someone says stay away from Texas in the chat. Definitely.

Larry 1:10:29

So well, that is why I am here.

Andy 1:10:33

Yeah, I got a button for that. You know that. I got a button.

MacArthur Movie Clip

That is why I am here.

Andy 1:10:38

Wow. All right. I don't think we have time to do any articles Larry.

Larry 1:10:42

We're are running short of time, aren't we?

Andy 1:10:45

We are we are we are let's let's cut it short, Larry. Visit registrymatters.co. That's the website. And well wait, before we do that, we do have a new patron. My very good friend Leo has become a patron at a very generous level. And I want to extend a personal best of success on your recent freedom to him. So

congrats. And thank you so very much for becoming a patron. Like within days, man, he gets out of gets out of prison and becomes a patron a couple days later.

Larry 1:11:10

And that's fantastic. And we do have super patron's question.

Andy 1:11:16

Oh, shoot. Right. We have super patron's question. I forgot about that. And I have a button for it too. You ready for our super patron's question?

Larry 1:11:22

I'm ready.

Super Patron Message 1:11:26

Hey, guys, just wanted to call and ask a quick question, Larry, if you could, would you explain the differences between cases that are dismissed with prejudice and without prejudice? I've seen in the recent ex post facto case that was dismissed in Florida, that it was with prejudice. Could you explain maybe what that means and what that means to the case? And maybe the differences between the two? I really appreciate it. And as always loved the podcast and fyp take care guys.

Andy 1:11:57

interesting question.

Larry 1:11:59

So well, that one's fairly easy. It's it's the with prejudice means that that case is dead, it's been extinguished. That particular case is dead. Now the issue itself may not be dead. But that case has been decided on the merits. And for whatever reason, it's over. And when a case is dismissed without prejudice, make it real simple. A case can be dismissed without without prejudice. The officer doesn't show up. And, and so a persons a person's in custody. But Jeopardy has not attached. Yes, the person was in custody, and the person's attorney screaming that this case should be dismissed, because the officer didn't show up. But there hasn't been a decision made on the merits of the cases, it's just simply the officer didn't show, therefore it's dismissed. The prosecution can go back and refile the case if it's been dismissed without prejudice. But if the officer did show up, and a decision was made, and it was it was adjudicated on the merits, then it can't be brought again if it's an adverse decision. So this this case, I have no idea which case he's talking about. But it means that case has ended, that they cannot refile it, that Jeopardy has attached, and it based on the merits the case is over.

Andy 1:13:19

All right. All right. So prejudice means dead, not prejudice means it could be brought up again.

Larry 1:13:25

Without prejudice, Yes, it can. It can be refiled. And and like our case here on out of state translation, where we had challenged the failure to provide due process, we ended up with of our all of our plaintiffs, we ended up with only one left because of adverse ruling where the judge decided that since they had not asserted their claims within three years, that the statute of limitations barred them. So those those plaintiffs were dismissed. We ended

up with one, he moved out of the state. So we end up with somebody who didn't have a controversy because he was no longer required to register under New Mexico law. So that case was dismissed without prejudice, we could refile that, that that case with those issues because we haven't litigated them on the merits. And we are about to do that probably early in 2021. But but but that's the difference, we can refile.

Andy 1:14:17

Alright, alright. So then I'll try to do this again. I think we're done. Are we done?

Larry 1:14:25

We are. So how do people support, how do people find us first, where do where do they find this podcast?

Andy 1:14:33

Find us at registrymatters.co

Larry 1:14:37

And then how do we how did we get that phone call we just received?

Andy 1:14:41

Well, that was actually he just he recorded on his phone as a voice memo and emailed it in which is awesome because it sounded so much better than a phone call Larry.

Larry 1:14:51

But if they were to call us how would they do it?

Andy 1:14:54

Alright, that's (747)227-4477 (747)227-4477 is the phone number to reach the podcast and say fyp at the end, or I'm not playing it.

Larry 1:15:06

Alright, and then if you want to write to us, you can do it on YouTube In the comment section.

Andy 1:15:14

We've been getting a flurry of comments on YouTube lately. Any anything you want to cover there?

Larry 1:15:19

Well, I just, I was I was wanting to play that clip tonight. We may play it next week. But I wanted to play that clip, because the person did say that, that we took a position about herd immunity. And in my mind and looking at the transcript and listening to it. I don't think we did. I said that there is a theory out there of herd

immunity. And then in my mind, I was poking fun of the theory, because I don't believe the theory holds water. But there is that theory. And I said, But this would constitute a real-time lab experiment, because the people in prison, the prison population is relatively stable. And once the infection has, has, has made its way through the prison, theoretically, that immunity under that theory would exist. And so those who didn't die, which would be a tragedy, because people in prisons, we talked about I think we even gave the number of how many people had died in prisons. But those who didn't die would theoretically be immune. But but then I said, how's that working out for us? I posed that as a question I don't think we took, did you take a position?

Andy 1:16:27

I don't recall. I said it would be a great natural experiment to actually figure out what it is. This is a perfect natural experiment to figure out if herd immunity does work because you have a confined population that's pretty, like you said, stable. And you have a smallish number of 500,000, 2000 people in those prisons and jails, yeah, it would be a perfect way to find out if we can achieve herd immunity. And I'm going to go if it hasn't worked out so well.

Larry 1:16:52

Oh, well, like say I thought I was poking fun of the people who who were the, are the proponents of that theory. I did not know I was endorsing it. If I did, it sure was news to me.

Andy 1:17:03

So registrymatterscast@gmail.com And then of course, our favorite way for people to support the podcast is to go to patreon.com/registrymatters But also follow us on Twitter and look for us on YouTube. You can find us at registry matters in all of the places and Larry that is all I have for this evening.

Larry 1:17:24

If you watch us on YouTube, make sure you hit that subscribe button. We need that number to go up every week. So hit that button and even hit the bell so you know that when there's an episode out.

Andy 1:17:38

that's what I wanted you to say was hit the bell. Perfect. Larry, have a great night. I appreciate it as always.

You've been listening to FYP

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