



Registry Matters Podcast

Episode 173

Recorded 4-17-21

Andy 00:00

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Recording live from FYP Studios east and west. This is Episode 173 of Registry Matters Larry, can you believe that we have been doing this for so very long?

Larry 00:26

I cannot. How many is 173. That's just like two years shy of my age.

Andy 00:34

Yes, I believe that that's accurate. You know, it's, at least in my research, when I was putting this together, most podcasts don't even make it past roughly about seven or eight episodes. And we've maybe a few factors made it past that. What do you what do we have planned for this evening?

Larry 00:53

Well, it's, it's quite packed with things we're going to talk about. It's wonderful to be here with you again. And we're going to be talking about, let's see, I can't even remember it all. And I'm the one that tried to prepare it. We had the guest earlier, which we've already recorded by the time it'll be played. We have a short video clip, followed by my thoughts on the issue of police misconduct in light of the Derrick Chauvin trial in Minneapolis. And by the way, the state and the defense have both rested and closing arguments will be made next week in that case. We have a couple letters from behind the walls of prison to read. And I want to briefly talk about the case of *Michigan versus Travis Johnson*. And the issue of constitutional what what's constitutional what's not. We're planning to talk about House Bill 56, from Louisiana, which deals with the marking on driver's licenses. And we're gonna talk about Senate Bill 515 was just passed the Maryland legislature in the waning days of the session. And I think I have a personal comment to make about the passing of Bernie Madoff.

Andy 02:03

Wow. And we're gonna fit all of this in. So as of now we have about 35 minutes left to cover all this. Can we can we make it?

Larry 02:10

We may have to have a patron extra for some of this.

Andy 02:14

Alright, maybe that? Oh, yeah. We also have like a new patron that I gotta I haven't put in the show notes yet. Oh,

let's see where so maybe we'll start with the letter from John in Colorado.

Larry 02:26

Yeah, let's let's do it. What is what does John have to say?

Andy 02:31

Alright, the reality is, as you all know, that DAs adore sex charges, as no proof is required no physical evidence and no witnesses needed. An accusation, even if 30 or more years old, is all that is needed. The victim is prepared by the DA given a script to memorize then put on the stand to give an Oscar winning performance complete with tears, conviction by the jury guaranteed. And in this state, is the test for ineffective assistance is the breath test. A mirror is put in front of the lawyer's mouth. And if a fogs it up the judge rules that as a competent and effective. Larry, honestly, that doesn't sound too far from the truth. And a lot of them.

Larry 03:21

Well. He's actually saying the breath test. He isn't that far from the truth, because that's the test that US supreme court but put into it. That's what they determined. There's a lot of latitude of ineffective assistance of counsel and the attorney, when you say they're ineffective. They always say that that was their strategy. And then or reviewing court has to look at was that a reasonable strategy? And almost everything that they connive or contrive? [Larry's senior moment].

Andy Concoct

Larry Yeah, I love that. Everything they can concoct is a reasonable strategy. Yeah, it's very difficult to come up with something that they can't say that articulate what was a reasonable strategy. And therefore, the deference is to the attorney who was making the decisions there on the location, with all the facts of the case. So it's very hard. That's a very difficult threshold to overcome; ineffective assistance of counsel. Ineffective assistance of counsel doesn't mean just because you didn't like the outcome, they weren't effective. They could have been very effective. I'll give you an example. In the Chauvin case that we're going to talk about later. If he doesn't get convicted at all if he gets acquitted, of course, that's very effective. But if he gets convicted of the lesser of all the charges, that counsel again was very effective.

Andy 04:48

Just real quick, what's the difference between first agree would be premeditated, you've planned everything out you went into the thing second is, what's the difference in

second and third, then

Larry 04:57

I'd have to each state is different by We'd have to look at the elements. But they've got everything. They've got him down to a very, very minimal charge or they collect second degree manslaughter or something. The effectiveness doesn't mean that you that you get acquitted effectively means that you get a good outcome a view of what could have happened with the evidence they had at the law as it's written. Remember, guys, your attorney didn't write the law. Yeah. That's, that's beyond the attorney's paygrade not the people who wrote the law, and who establish the burden a threshold of proof that's required. And the attorney is operating within the environment that the state legislature in Denver decided in terms of what the whole situation is. That's beyond the attorneys control.

Andy 05:47

Check. Gotcha. And I guess, are we ready to move over to John in Colorado?

Larry 05:54

Yes, I feel bad for the writer of that letter, because he is correct. But that's the reality.

Andy 06:00

Sure. My question is when I was sentenced in 2014, the judge said I had to register under us code 42. us code looks like 16 901 in my supervised release information, but I see that the law is non existent and was transferred to 34 US code 20901. Back in 2006. There's an eight year difference. So the question is, if the judge didn't know, the judge did not use 34 US code 20901 information in my supervised release paper, could I fight the registration? I abandoned my case. There's no minor, and there's so much erroneous info in my case, I'm trying to fight the 42 US code 6901. It's non existent. That's interesting. What do you think about that?

Larry 06:58

It's not going to be a good challenge and it's going to end up with an exercise in futility. James, for everybody who he is in federal prison. And he seems to frame the issue that the judge informed them they must comply with a non-existent code section which has been transferred. But in my humble opinion, he doesn't really have a viable issue, because first of all, he'll be required to comply with the registration statute and the state he chooses to live in upon his release from federal prison. As we've repeatedly said, there is no federal registry. Second, the fact that the judge apprised him that he must comply with a non existence section of federal law does not change the state's law and their registration requirements. So therefore, whatever state he chooses to live in, and as far as I know, they all have

registries, registration requirements, and their registration requirements are usually broad enough to encompass all federal registerable offenses. I don't see an out for him, I don't.

Andy 07:58

And it wouldn't matter whether you can find the code or not, they're still going to say, here's, what you have to abide by. Whether you can find it or not.

Larry 08:08

Well, yeah, the admonishment to him was he has to register as a condition of a supervised release. And none of that changes, because if the judge had not apprised him of that, he would have still had an obligation to register, because all states have a registry. So therefore, he would have had, he would have had that same obligation.

Andy 08:31

And I'm going to ask the dumb question where it says, USC, that is us code. That's federal code stuff, right?

Larry 08:36

Yes, that's the that's the section of the Adam Walsh act when originally passed, it was listed under Section 42, title 42. And now it's under Title 34.

Andy 08:46

And then the states have Minnesota, MN, whatever, some Minnesota code or something like that some sort of other moniker and not USC.

Larry 08:54

Correct, that but he's not in full understanding that there is a state registry, there is not a federal registry. This 42 USC was a recommendation to the States. If you want your money, you will do this. Because if you don't do this, we will withhold 10% of a particular grant. That the state's law, and the AWA is a recommendation. They could say, No, thank you federal government, we choose not to have a registry. And that's nothing would happen other than the 10% loss.

Andy 09:28

Gotcha. Um, let's move over real quick. I did hear in the news that Bernie Madoff who scammed a whole bunch of money died in prison. What did you want to speak to about that?

Larry 09:38

I wanted to speak to that because we have an example here of the vindictive nature of Americans and how we can't get over it. I think that was like a \$57 billion with a B Ponzi scheme. And yes, it was a lot of money. If you lost part of your life savings or all of your life savings in that Ponzi scheme, that was a significant loss to you. But as far as I

know, he served just a little bit over 11 years in federal prison. And I'm not aware of anybody who got their money, they didn't already have it, they, what assets of his they could seize. They did. They did that some people got some small amount of reparation. But all that didn't accomplish anything. He was in the final months of life with a terminal illness as I understand it, he filed for compassionate release because of the pandemic, which there was no chance, and you know what, that that was going to be granted. But if we can't let go, at some point where we've got enough flesh, the man was no longer dangerous, he would not have been able to be in the securities business, he would not have been able to go on unnoticeable, if he'd have been on home confinement, or in a halfway house or something that was less dangerous to his health. If we can't let go at any point, then we're never going to have the meaningful reform that people talk about. Now. I'm not saying that I would, that I would not feel different if I were one of the victims. But that's why society makes the rules, not the victims, the victims are supposed to be put aside. And the greater good of society is supposed to be what dictates how our system works.

Andy 11:23

See? Okay, and then I guess we will then move over to this video clip. This is spectacular. Do you want to set it up real quick?

Larry 11:34

Yeah, this is a Army Lieutenant is a lieutenant. I think he was.

Larry 11:39

Yes, he is.

He got maced by the police after being pulled over. And it fits in with the Chauvin trial, the outcome was far better because the mace you can recover from but I just thought that that would be worthwhile to listen to him. just shy of a two minute clip of what this commentator has to say. I've never heard this commentator before, but he's really articulate. So roll.

Andy 12:07

Brian in Louisiana says he's a butter bar Second Lieutenant. Alright, here we go.

Wes Moore 12:14

It is it is absolutely infuriating. Looking at this video, and it's infuriating, because as you pointed out, it makes so many of us feel like liars. Where if we you know we they call it a high risk traffic stop. But unfortunately, in this country, every traffic stop is high risk. Because he did everything. Interviewer adds [If You're a black man.] That's right, if you're a black man, because he did everything we've ever

been asked to do in these kind of situations. Where were you realize in situations like that your resume doesn't matter. your CV doesn't matter. The fact that you were in uniform, doesn't matter. Your vehicle doesn't matter. Your calm demeanor, doesn't matter. He calls them sir, it doesn't matter. You still have to end up in this situation. The fact that you can pull over in a lighted area, it doesn't matter. And this kind of this conduct, it erodes at basic fairness, it erodes public safety. it erodes on the idea that people feel like this is it can be built for everybody. And so when we have when we watch this, an Army Lieutenant a person who the same way that I did put his hand on a Bible and swore to protect the integrity and the safety and the future of this country. Now watching how he is treated despite doing everything that he was taught and being asked to do. It makes us feel like liars.

Andy 13:55

It's funny to be in I don't mean funny in that respect. It's super interesting to me. There's there's a there's a friend of mine that just says Why don't they just comply? As far as I understand, he pretty much complied every in every which way possible. And that's still how the outcome went down.

Larry 14:13

Well, the only thing that he did that I could see and I watched all the all the video clips I could find he continued to want to know what was going on, which I think is a reasonable request and of what's going on. And he did not step out of the vehicle upon demand. But again, try to imagine that you're African American, rather than being middle class white. Try to imagine all the videos you've seen in the stories you've heard from people in your community. And you might have just a tad bit of hesitation to step out. But had they told him why they were pulling him over. I suspect he would have been more cooperative as well. In this country. You Do have the right to be apprised of why law enforcement is intervening and disrupting your life.

Andy 15:09

I heard something along the way. Not that this is a show about police misconduct per se. But I heard somewhere in there, they said something like the term of "ride the lightning", which I was like, I can probably figure out that without that, excuse me figure out what that means. And then also, they said something about, he said, I'm afraid to get out the car and the cop said you should be.

Larry 15:30

He did say that. To me, he did say that. He did say that the video, we have some articles here, which we won't spend any time on. But I'll say that, finally an officer was held accountable. The one who maced him was fired, which is exactly what should have happened. There's no justification in my mind your times for a person to do that, who's been

cooperative, there was no reason for the officer to fear in any way for his safety with his hands out the window with everything. But this is an example of why we need police reform. Folks, this is an example. This continues to happen. You know, we have teenagers continuing to be shot. We had the police woman, which is the first time I can remember except for the woman in Dallas, the police woman who says that she shot the person because she mistook her taser; If she grabbed what she thought was her taser. And she shot the person now, they have also in the process of trying to hold her accountable. She's been arrested, and she's been charged, which is exactly what should have happened. That's all we're asking for is to hold people accountable for if she made a mistake, she can explain it to the jury, she can put affirmative defense and say yes, I did shoot him. But it was a mistake. And we'll see what the jury says. But exactly what should happen, has happened.

Andy 16:53

Very well. But joining us right now is a very special guest that named Selena and she is a licensed practicing realtor in the state of Georgia, and something came up with someone asking me questions about moving into really just wanted to cover this kind of like in general, from a professional's point of view, instead of just being mere Larry just kind of shooting from the hip on whatever our experiences are figured with throw down with a licensed practicing realtor. And let's get terms, right, your realtor is not the right term, right?

Selena 17:29

No, it is actually correct. It is a realtor, I am a licensed real estate agent. Anyone who is gets their license immediately is a licensed real estate agent, becoming a realtor is different, you actually have to join the National Association of Realtors in whatever your state is. And then of course, you're a member you have to pay and you have to continue to pay to claim that name legitimately. But yes, I am an actual realtor, and I am a member of the Georgia Association of Realtors.

Andy 18:01

Excellent. And first, like Thank you, thank you, thank you so much for doing this. I appreciate you taking the time out of your busy schedule on a Saturday night to join us. Thank you again for coming on.

Selena 18:10

You're welcome. You're welcome. Thank you

Andy 18:12

back to the buyer broker agreement. I guess the idea here would be to if you if you roll up on a house and you see a sign and says called john smith realtor Is this a good idea or

a bad idea

Selena 18:25

is actually not a very good idea. Now this is as a buyer and as a buyer, it is actually you're shooting yourself in the foot when you call the actually listing agent because that the agent is actually in a legally binding contract that requires them to of course represent their seller. And so any information and all information that they can possibly obtain from the buyer side that benefits the seller. they're required to disclose that to the seller. So you as the buyer, if you tell all these things about you know your finances what you're able to finance what you're not able to do, you know all these things, anything and everything they're required to tell the seller this. So again, I feel like you would be you would be making a foolish move as a buyer to actually to contact the listing agent, because like I said, they're in a binding contract with that seller to tell them everything that they possibly know about you. So if you do like we'll just say like a lot of people they like that a lot of the companies that they're with, there's a lot of major companies like Coldwell Banker, Keller Williams and stuff like that. Definitely, if you like that company, again as a buyer call the main office and have them you know, assign you a an agent so that way you can be properly represented, if you just like the company, if not, like I said As a buyer, definitely if you if you have the opportunity go to someone go to a different company so that way you are properly represented by a different agent that has, that has nothing to do with being obligated to the seller.

Andy 20:14

Okay, and should people get pre-qualified before they start doing the process of buying a house,

Selena 20:22

Definitely just when you are in the process of even considering that, we'll just say that you are actually wanting to be a little bit more serious other than just thinking about it, I would recommend that you get at the very minimum pre-qualified, there's a difference between being pre-qualified and being pre-approved. Pre-qualified, means that someone, your lender, whoever your lender would be, they would just put, they will not pull credit that you do, they're just going to give you you're gonna ask for basic information about how much you make a month, all these basic things about you about your finances and stuff. And of course, your spouse as well, and try to give you a great guestimation on what you would probably qualify for. And that's without pulling credit. Now, to make it a better step and more and more accurate you would be it would be in your best interest to actually get pre-approved, They would actually have to pull credit, you'd have to send documents, all that good stuff. So that way you would have a more accurate pre-qualification range of what you would be able

to afford, you know, so I do definitely, definitely recommend that you would actually would you get pre-qualified, I mean, pre-approved, pre-qualified, you know.

Andy 21:51

So I guess for the listening audience, not everyone, many people have gone through the process of buying a house, but things that are specific to the PFRs 00that are listening in, at least, you know, in the United States and potentially internationally. And I realized that every state's going to be different. So we're speaking mostly in general terms, but more specifically about Georgia. What do I have to disclose as the PFR to the seller about my status of Being on the registry? Should I tell you as the realtor? Or should I still kind of leave that hands off? Or do I have to tell the seller what do I have to disclose to them?

Selena 22:32

Actually, nothing. You don't have to disclose any of that information to myself as the agent or myself, or anyone else as the brokerage or the seller, you know, you do not have to disclose that information at all, to either one of us. Unless, of course you feel comfortable to tell the agent themselves, then yes, I would. I would say that Yeah. If you feel comfortable, if it's someone that you know that someone that someone else that you know, that recommended that person that maybe could be some, you know, someone that would probably hold that information, and they just kind of use that just to assist you. Yes, definitely let them know. But if you don't feel that comfortable to let them let them know that type of information, I would not recommend that you tell them that. Because it really isn't something that I as an agent is required to know. All I need to know is where do you want to live? Where what areas you want to live? Or is there any specific, you know, is there any must haves as their specific cities or, you know, areas or something like that counties or whatever, that's all I pretty much need to know. And if you're, quote, pre-qualified or pre-approved either one of those two, I do have to have that information. Other than that I don't have to have, I don't have to have that specific information. If you are a PFR or not, you know, if you're required to register or not, you know, it would help

Andy 23:48

Again, I was gonna say, like, strategically, would it benefit me to give you some kind of ideas, and I'm not trying to, like hold your feet to the fire, like I'm specifically saying, like you are not contractually obligated to, if I end up getting into a house that turns out to be not qualified, that you're somehow responsible for us that I come after you. But if I tell you like, hey, look, I need you to look for a house. It's not near XYZ kinds of things, schools, parks, playgrounds, churches like those things, does it help in any sort of way?

Selena 24:20

It does help me that if I have to know these kind of details, yes, it does help. Because generally if you say hey, I'm looking somewhere in central Georgia or an Atlanta or whatever, that's a huge area. And it helps me to know very specific things. Why do I need to know this information? I don't, I don't have to know these things. But if you say hey, if you tell me that I have to have I can't be near this and this and this. I may be a little bit curious. I may ask me why but I don't have to know why. But it does benefit me. But I when I do find out because I have had a couple of clients that have been a person forced to Register. And I had mentioned to them that it does help me out. But I also more than one more than one time, What will I say? Well, I mentioned make sure that they are aware that I cannot be liable for that kind of information to, to ensure that that is where you as the buyer, or you as the PFR would need to make sure that once the process get started, and we find a property that you are interested in, that will be your responsibility. Ultimately, it is the buyers responsibility to find out the kind of information whether you're a person who's not forced to register, and you want to know about that information, then you know, doesn't matter what side that you're on, you will it'll be ultimately your responsibility as that buyer to find out the information that may be important to you whether you want to know the crime level, whether you want to know how many schools are in that general area, what schools are there, what type of school what level the schools are at, whatever the case may be whatever information it is that you're wanting to know specifically about that location, it'll ultimately be your responsibility to find that information out, I can help you, I can do my just, you know, search, but I cannot be ultimately I cannot be responsible for that, to ensure that all the details that is that you're looking for that, that that they are for sure 100% for that particular property, you know, secure now,

Andy 26:34

in initiating the process with someone that's selling a home, and me being someone on the registry, somewhere in there, I'm going to have to go almost like straddle a fence of do I know that I can live there, I won't know unless I go talk to law enforcement to find out if the place would be approved. But somewhere in there right now, especially the housing market, his houses are staying on the market for days, you wouldn't have the time to get the sheriff to come look at it. So how does the due diligence process work in, like, where can I back out with, with no consequences with minimal consequences, it's too late the ship sailed like you're done for where did those different timelines occur.

Selena 27:14

So um, you know, generally the process of acting like when you find a property, you put in an offer and the offer is

hopefully, your agent will assist you in acquiring as many days as possible to help you have your due diligence period. So due diligence periods is where the buyer requests and this seller has to agree all parties have to agree to this. But we'll just say everyone agrees that you're going to have 10 days of due diligence. And so during that due diligence periods, you can have a reason or no reason to back out. But during that time-frame, it's also your responsibility as the buyer to make sure that you get a home inspection, which is very recommended, it's not required, but it's very recommended to get a home inspection as well as doing your own part to do your own search. I recommend all my buyers to go ahead and just drive around the neighborhood go in the evening times, weekends, early morning, all kinds of hours to ensure that this is the neighborhood because just because you go in at two o'clock in the afternoon to a neighborhood to look at a house and it's perfectly quiet, doesn't mean it will be that way, Monday through Friday, at five o'clock, six o'clock, or on Saturdays or every you know, you never know how the week and how different days will differ on the type of neighborhood that it may be. So that'll be that will be again, like I mentioned before, the responsibility of the buyer to do that part too. If you're concerned with anything with safety, slash crime levels, that's when you go call and make your own phone calls and contact the law enforcement in front of find that information. Now as far as a PFR that's a little bit tricky. That's but that is when you will do that timeframe. If you feel like you need to contact law enforcement to make sure that this is the dwelling that you're you'll be okay to actually, um, you know, live in then that is when you do it. I have had it in the past where another person has tried that it didn't work out that way. As far as the timeframe when law enforcement came out. They didn't do it until they weren't able to confirm that until after the buyer closed on the property. When that happens. Of course we have no control. I have no control over when law enforcement is able to confirm whether this is something that is going to be adequate or this is something that will be okay with you to live in as a PFR I have no control over that. So but you know, when it comes to instances like that, I guess at worst case scenario, if you happen to close on a house and you still don't have confirmation with whether this is an address that you can live at or not, then I guess worst case scenario would be that you would just put it back on the market and sell it or rent it out or something like that, you know, that would be worst case scenario, hopefully during the timeframe.

Andy
That sounds terrible.

Selena
I know it does. I know it does. And that is why you may want to ask for more than 10 days of due diligence, I would

recommend maybe 14 days so that way law enforcement, we'll be able to verify that this is a dwelling that you are or aren't able to occupy and kind of go from there. But you know, of course, it's one of those things where on my part, as an agent, I have no control over that.

Andy 30:53
Sure. Friend of mine, he found a house made an offer closed on it all the while has asked his probation officer if he can live there, it's way out in the middle of nowhere, there shouldn't have been any issues with it. But it still took him I think six weeks before he got approved to move in. So now he owns a place. And he goes out to the house every day to go work on it and do stuff to but ultimately, it took him something of a month five or six weeks before we could actually get in.

Selena 31:20
Alright, remember that? Yes, I do remember that?

Andy 31:24
Do you have any tips, strategies, ideas of how someone could figure out the specifically for George's 1000 foot restriction for many, many people, not everybody. But you're looking for parks, schools, playgrounds, and depending on when but how would you go about suggesting someone figure out where these different restriction areas would end up to be in relation to the house?

Selena 31:50
Well, not only do I recommend that you as a buyer go or you as a PFR go, actually, you actually take a drive and look at the neighborhood look at the house. Because whatever you find on Google will be maybe a little bit different. So I recommend that you personally take a drive and drive thru out that, that square footage, 1000 feet, whatever the case may be for you. If you're not able to Google Earth will probably be the best bet for you, um, or Google Maps, or some kind of website like that, Google Earth has been a little bit more beneficial to me, because there are ways that you're able to do like 1000 foot or even whatever your whatever it is that you're looking for, you can punch in a, a footage, that you're trying to look in a circumference, and it'll circle that area and notify you on what's in there. So you're able to, narrow down the search for that specific footage area, and maybe see that what's in there. Now, again, like I mentioned, this is just Google Search slash internet stuff, and we can't always be 100% sure that everything's gonna be accurate on there. So I do encourage you to do extensive search, again, visit the area, make sure or at least then someone that can actually visualize because things change all the time. Just because Google Earth or Google Maps or, or whatever other map sources you're using, if they say that there is not a church/childcare center

there, doesn't mean didn't want didn't pop up last week, you know, so I do recommend that you actually go there to visualize everything.

Andy 33:45

I've used Google Earth and drawn circles around to at least give you some sort of idea of how far you're concerned with. And it might not be from where the house is you're looking at, you know, if you go buy 100 acres you have to worry about from the corner of the property is not where the house is, which is totally correct, but, do you have any quick final points before we move out?

Selena 34:08

Yeah, I'm not I do have some just kind of some pointers if you are interested in if you're looking for a piece of property. If you do have recommendations for someone else, as far as an agent goes, you know, do your research on that particular agent, um, maybe kind of like, get a feel for them, talk to them real quick and kind of see what you know, go on Facebook, go on social media, if you're able to, and just kind of do a research on them specifically, if you're able to get word of mouth recommendation, I would recommend doing that. As far as like a buyer, there's several things that you shouldn't and shouldn't do. And I can post that information which you can contact Registry Matters just kind of get that general information on being a buyer or being a seller. There are booklets, there's I can send you a booklet or I can send you some general basic information on just being a buyer or seller. on that, if you want to contact them to get that kind of information, I can certainly provide that for you.

Andy 35:15

So you'll send me those booklets and I can post those in the show notes for people to snag. I think I think we got everything covered all the questions and all that stuff. And if they want to reach out to you, you gave me the phone number, if they have any questions, that they could reach you at 478-225-3688. And I think that's about it. And I can't thank you enough for coming on the show and providing us with that info.

Selena 35:41

Thank you very much for having me. I appreciate it.

Andy 35:44

Appreciate it. Have a great night. Talk to you soon.

Ready to be a part of Registry Matters, get links at Registry Matters.co. If you need to be all discreet about it, contact them by email Registry Matters cast@gmail.com you can call or text a ransom message to 74722744771 to support Registry Matters on a monthly basis. Head to patreon.com slash Registry Matters. Not ready to become a patron. Give

a five star review at Apple podcasts or Stitcher or tell your buddies that 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 House Bill 56, which is pending legislation in Louisiana. Just to bring everyone up to speed the Louisiana Supreme Court declared that marking driver's license was unconstitutional. We discussed the decision in the podcast God probably six months ago, four months ago. And I want to read directly from the final page of your written analysis. You people that would be up Larry, this ruling leaves the door open to the state of Lousy-ana adopting a more discreet marking on licenses and identification cards. I believe that you predicted that the legislature would pass a new version and here we are now. They are now considering a bill to reinstate the marking with one that is more discreet. Do you think that this will pass and do you think it's constitutional?

Larry 37:24

Yes, I believe it will pass. And I hate to say but I believe it will be upheld as constitutional. And I hope there's a challenge but I believe it'd be upheld.

Andy 37:36

We talked earlier in the week about the marking I guess, like in Florida, which just like some tiny little code in the tiniest little font, not saying i'm in favor of it, but it's super like not like some big freakin x on the driver's license. It says PFR here, something like that. So if they do something more benign, it would be harder to say that this is some sort of debilitating marking.

Larry 37:57

That is correct. But see now, I put a case out there that you were pontificating about why you don't understand the Michigan case. Now you see the reason why I decided to put the Michigan case in there. Although it doesn't directly deal with sex offender registration, it does explain two types of constitutional challenges. So let's take a look at it now. And I would ask that you read the highlighted section on page two, it explains facial challenge versus as applied. And that would be helpful if you would read that.

Andy 38:26

So you copied here says it explains a facial challenge versus as an applied No, no driver's license,

Larry 38:32

Read from the decision from the decision of Michigan, the Michigan decision that's in the PDF. Already? Oh, me too. I'll do it. I'll do it if you're if you did, so.

Andy 38:43

Okay. I Do have it. I found I found I got I gotta gotta gotta get it. Do you want to defendant Michal a constitutional challenge is that,

Larry 38:49

yep, that's it.

Andy 38:52

All right, a constitutional challenge to the validity, excuse me, the validity of a statute can be brought in one of two ways by either a facial challenge or as an applied challenge. A facial challenge attacks the statute itself, and requires the challenger to establish that no set of circumstances exists under which the Act would be valid. The fact that the act might operate unconstitutionally, under some conceivable set of circumstances is insufficient. So God this facially like you and I have talked kind of at length about this in the past about what does this actually mean? So can you dig into that a little bit please

Larry 39:30

That's why I wanted to hear from a recent court decision, because the standard is uniform across the country on a facial versus as applied. The reason why you will never be able to stop them from marking driver's licenses, is because if you just listen to what was said, there, there has to be, to succeed and prevail on a facial challenge, there has to be no set of circumstances by which a marking could be put on a driver's license. And that just It can't be the case, we mark driver's licenses already, we bought driver's licenses for people who are under the age of legal drinking. In my State, they turn those vertical. But that's a marking Right? We marked driver's licenses for people who have visual impairment. We mark driver's licenses for people who have an interlock required. But so you can't say that it's facially unconstitutional that there would be no set of circumstances by which a marking would operate lawfully. Therefore, we have to make an as applied challenge each time a law is passed, requiring a marking on a driver's license, since it can't be facially unconstitutional, we have to look at how they're applying it and what marking their applying. And in this case, this is far more benign than what they had previously. And, as I said, in the prediction from back in October, when I wrote that analysis, that this is exactly what I would expect them to do. And I mean, it doesn't take a genius, this is exactly what they would do. They're not going to fold up their tents, I guess we got this wrong, we just never should have been doing this, they're not going to do that.

Andy 41:11

So tell me what they are proposing as an improvement over the current law.

Larry 41:17

Oh, it's, it's it's a dramatic improvement. The improvement is because you don't have to now have a separate ID card, it eliminates having it previously, you had to have a separate identification card, even if you had the marked driver's license. And now you will have the opportunity to have a license that doesn't have to be renewed annually, which is going to cost you would have cost you money, they would no longer be expending those funds. This marking is going to just say T or one, T one, two, T two and so forth and so on for your actual designation under Louisiana's system, they use the tier system. And these are not risk based, these are just simply offense based. They take the categorical approach in Louisiana. And this is all they're putting out there. I don't like it. But the question you asked me was, will it pass constitutional muster? I believe it likely will.

Andy 42:16

And why are you so sure of that?

Larry 42:20

Well, I don't see that... If there are people out there who said, Larry, you don't understand the Sixth Circuit struck down by Michigan's registry, because of the that after they changed the law, they put in the tearing system and people's registration periods were increased. And they did that without any due process. But in Louisiana, they did not this driver's license doesn't change your registration period. So in order for you to draw the correlation in Michigan, you would have to look at that you'd have to bring a more comprehensive challenge. And you have to argue that the disabilities restraints, which is what won the Michigan case. And just simply this marking, I don't think it gets you to the finish line. But if you combine a challenge, and you argued that the marking, marking of the of the T one, T two, and T three with all the disabilities are restraints, and that they gave you that without any due process, you might prevail that way, but if you just assault this particular statute with a challenge, I think you'd get little or no traction.

Andy 43:32

Um, all right. And if we want to push back, if the PFR is want to rally the troops and go try and defeat this. What do we do?

Larry 43:46

it's virtually impossible for me to even devise a plan to push back. Louisiana has had this marking for years. And the law enforcement will claim but they need this marking for community safety as well as off officer safety. And any meaningful opposition's is unlikely to materialize, because we really don't have a strong advocacy in Louisiana that I'm aware of anyway. And you would need to have significant public opposition. And I just don't see that materializing

either. So if you've got public support, you've got law enforcement support, and you don't have any meaningful public opposition. How do you overcome that? those dynamics? I don't see how you do it.

Andy 44:31

Do you really do you know that like you always seem to be the eternal pessimist? Like I can't really ever like rarely do we ever get good news Larry

Larry 44:39

Yeah, I've heard people say that before.

Andy 44:44

How about over on a Senate Bill 515 from Maryland . The proposal is heading to the Governor Larry Hogan for his signature. What is this and what will it do?

Larry 44:58

Well, the first part question on the bill severely limits or actually, I think it prohibits students who are listed on Maryland sexual offense registry from attending regular schools. And the second part of your question is, well, Governor Hogan signed it. Yes, he will sign it. So

Andy 45:18

I assume this goes to everyone. Why doesn't the president, governor fill in the blank there? Why don't they just veto it if these things are so terrible? I mean, I'm assuming that this goes to that.

Larry 45:28

It does. And I don't have a crystal ball. But I do understand the political reality. And by the way, this bill caught our Maryland affiliate by surprise because it passed in the waning days of the session, and they had assessed it as unlikely to pass. But let's talk about the political reality. Through the years, there's been much criticism of former President Obama for not vetoing international Megan's Law back in 2016. You remember that? Right?

Andy 45:56

I do. I do. I do that sort of thing. Now,

Larry 45:59

Now we have the opposite scenario in Maryland. Obama was a Democrat and Governor Hogan as a Republican, and Governor Hogan will sign it because there was overwhelming public support for the legislation. And it is purportedly solving a terrible problem in Maryland. The purported problem is that the survivor of the sexual crime could find him or herself in daily contact with the perpetrator in a public school. And Governor Hogan would not dare veto a proposal that is fixing such a problem, just as the same as Obama, or any other president could not

have vetoed international Megan's Law with law enforcement support at all the overwhelming public support that this was to help prevent Americans from traveling to other countries to exploit vulnerable children. The reality is, Hogan is gonna sign it. And if it wasn't Hogan, if it was a Democrat governor, they would sign it. You can't veto this type of thing.

Andy 46:59

Yeah, like, yeah, we already know they can't veto because if they did, they would lose a ton of political capital. And it would probably get turned around and that veto would be overridden. Right?

Larry 47:11

Well, I think they adjourned. So I don't know what the process would be to override it. But even if even just even if they can't override it right away. This would be politically just it would be unsustainable political position for the governor of Maryland to put himself in it. I don't see it happening.

Andy 47:27

But I'm like, I really thought that you were such a believer in the Democrat Party. Last time I checked, the Democrat Party has the majority in Maryland. How did this then pass?

Larry 47:38

Well, it passed, because it has significant public support. And I hope you're being tongue in cheek, because I've vigorously criticized the Democrat party for supporting bad public policy. And I'm doing it again here today. Maryland Democrats, this was an irresponsible thing. I find I find this measure appalling. And I believe it's unconstitutional. If we've learned anything about public education, I think we've learned that separate but equal is not equal. And to prohibit these young people from going to regular schools, so they can get an education, look at the page four the bill. It takes shall educate, and it turns it to may, can you believe that may provide the student education. And I think this is deplorable. And I have criticized the Democrat Party over and over again. And I've just hope that we get some, we get some similar criticism when Governor Hogan signs this. I would ask this listening audience, that you were so critical of Obama, hopefully, you'll be equally critical of Governor Hogan for signing a bill. And I hope you'll hold him to the same standard that you held Obama to and demand that he veto this bill, but just what Obama should have done according to you, and this is I can't believe that this past but bad public policies, what we criticize, we don't care about the Democrat Party. If it's bad public policy, the Democrat party gets criticized. This is bad public policy. And I'm disgusted that the Democrat controlled legislature in Maryland passed that.

Andy 49:20

Um, okay, so is there anything else on this before? I mean, I'm gonna have to kick the stump speech thing out from underneath you honestly. Do you have anything else that you want to?

Larry 49:35

Well, this one, this one, like I say if you look at if you look at the it's, it's in here, look at page four. This is just appalling to me about what they're doing. A registrant who is a student may actually it's on page three, and they struck shall continue receiving and put may receive an education. "May". I love that you may receive an education,

Andy 50.00

I see where they struck that, okay, yeah, whatever. Line four is how its marked a registrant who is a student and that's marked out shall continue receiving, but may receive an education. So that gives them the way out that we've talked about this word shall versus May, on a number of occasions shall would make it a mandatory thing that they still get educated but "may" says "maybe".

Larry 50:20

Well, we could spend a little bit of time since we didn't go as long as I thought, but that they leave this up to the local communities to set this up for alternative education. And if we learned anything separate but equal, it's not equal. These youngsters need to be participating fully in the educationl process with their peers. And if the concern is truly about contact with the victim, that would be justification for having policies to to offer that, that kid an opportunity to go to another public school, but not to be banned from public school. But this this is this is just repugnant to me. But what happened was, Maryland has this in many states have this great thing for that cross file, they'll file an identical bill and the House and the Senate. They'll introduce them simultaneously. And this had a companion bill in the House that was identical. I believe it was House Bill 48. And House Bill 48 moved over to the Senate. And it got amended in the house before it got over the Senate. The Senate took most of the changes, according to my sources in Maryland incorporated into their bill and I shot it over to the House side. And they were expecting a conference committee. So for that the teachable moment here is you don't need a conference committee. If there if the same language passes, when the Senate Bill, the house didn't make any changes. Now there was an amendment proposed on the floor that failed, which would have necessitated at going back to the Senate, but since the House passed Senate Bill 515, as it came to them with no changes, there was nothing to concur with, there was nothing for a conference committee. They just simply sent it on to Governor Hogan, people need to understand that. It

it caused a lot of consternation when international Megan's Law passed, when, when it left the house, which was a house sponsored bill and it goes to the US Senate, the Senate added the marker to the passports. And then it had to go back to the house because it was no longer the same way. And the first step of the House of Representatives has to ask the house if they would concur with the senate change. And of course, Representative Smith, who had been trying to pass that for years, he looked at it said, Gee, this makes it tougher. This is my dream of all dreams, I would never would have thought I would have gotten a tougher bill than what I started with. So of course, he would say yes, I'll accept that. And therefore, the way the process works. In that case, they would have looked at representative Smith, are you happy with the amendment? And he would have said yes. And then they would have given it a voice vote to concur with the with the bill as amended the Senate that ended it. There are people who were fixated on a conference committee, they would have only needed to be a conference committee, if the House had refused to accept the amendments, then it would have gone back to the Senate test if they would recede on the amendment. And if they refuse to recede, then you would have had a negotiation between the two chambers to see if they could come up with an agreement. But all that doesn't happen if the same bill passes both sides. And that's what happened in this case. SB 515 passed, passed the House with No changes. And that's where we are and I expect the governor will sign it and I am encouraging litigation. I hope they litigate this. The people in Maryland that pass this they need to be taught a lesson that you can't have separate but equal education. Sorry, that's from the 1950s You can't do that now.

Andy 53:54

Interesting. All right, then so one of our listeners longtime listeners wrote in he reached out to me directly and he received SI think he's received this more than once. He receives a phone call from a specific phone number says which was a recording of the same text he got and I didn't answer the call as in every answer calls Listen, listen, Larry's is he never answers calls from people in numbers he doesn't recognize but he saved the voicemail said mind you the both the text and the phone call were to my actual phone number which begs the question, Who sent them? Is DCS (Department of Community Supervision) actually sending out these calls or alerts he's getting alerts on his phone talking about Watch out for these scams that we've talked about in the past. He's getting alerts from DCS the Department of Community Supervision about the scam calls. I've never heard of them sending them out and when I was still under supervision, I never received anything like that. Have you ever heard of them being proactive and warning people like this?

Larry 54:52

I have not but I loved it. I love to hear that because there are people pfrs there's so many scams and it's not just pfrs but that's a particularly vulnerable population is one thing, if they call you and tell you there's a warrant out for your arrest. And it's not related to violation of the registry because the violation of the registry is so the penalties are so extreme. But they do that all the time they call them tell the IRS, you know that we're out of war now pay your taxes, Social Security or numbers paid us for fraud, we're with the Social Security Administration, you need to this is this is so repugnant, as well. And I'm glad that the supervising authorities in Georgia are doing that.

Andy 55:33

I'm not saying that people in the free world can't track down people's cell phone numbers. You and I've talked about that a number of times, it is not as easy opening up the phonebook though the white pages and letting your fingers do the walking as the expression used to go. I'm wondering though, if the scam calls or not some kind of inside job. And that's what really disturbs me is that they have the lingo down, they have they make it a pretty compelling believable type of call. We've heard examples of this,

Larry 56:02

I have, I have no doubt that there would be people who would be able to access that information by hook or crook or bribe or some way to find out a list of folks who would be particularly vulnerable. So it would not surprise me. It's kind of like the contraband that comes into a prison. The majority of it is we have learned comes from people within the prison who are working there. It would not surprise me at all if these calls are being these scammers are being provided the information by people on the inside would not surprise be the least.

Andy 56:37

Is there anything else my friend before we duck out? I have a patron thing and we can make some contact announcements, whatever. But otherwise, is there anything else that you want to cover? Before we get out of here?

Larry 56:48

I think we've covered it. We did lightning speed tonight, didn't we?

Andy 56:51

We did pretty quickly, pretty quickly. definitely want to thank a new patron coming in at a very healthy level, named Chuck, thank you so very much for your support. That is incredibly awesome. It's so very much appreciated helping keep the lights on and showing support for the program. It's incredibly special. And thank you very much. So with that, Larry, I will just, we will say that find all the show notes and everything that you need to connect with the show over at <https://RegistryMatters.co>. And of course, you can leave voicemail messages at 747-227-4477. My favorite way is for you to go over to patreon.com/registrymatters and show your support for as little as a buck a month. It just helps us know that we are appreciated in providing you with some level of information that makes you a happier camper. And maybe we can push back and fight these things in the future. You know, doing like Brenda is doing there in Maryland and pushing back on these crazy laws about not letting people get educated. So that Larry, as always, I thank you very much for joining us. And I guess I'll see you maybe in a week.

Macarthur 57:57

That is why I am here. I appreciate the opportunity to be here again.

Andy 58:04

You rock. Take care, buddy. Bye.

Larry 58:05

Good night.

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