



## Registry Matters Podcast

Episode 176

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Andy 00:00

Registry Matters is an independent production. The opinions and ideas here are that of the hosts and do not reflect the opinions of any other organization. If you have a problem with these thoughts FYP recording live from FYP Studios, east and west, transmitting across the internet. This is Episode What are we at 176 of Registry Matters, Larry, another Saturday night. You've not made it to that gorge yet? I thought I sent you that Uber.

Larry 00:27

You did. But at the last moment, they cancelled it when they saw the destination that we were headed to.

Andy 00:35

Oh, dang, well, you know, they didn't refund the money, then?

Larry 00:38

Well, but I think they cancelled it. But inside that five minute restrict whatever it is, there's a restriction period where you if you cancel, you still have to pay a \$5 fee.

Andy 00:48

All right. Next time I send it, man, make sure that you make sure that they take you.

Larry 00:54

Okay,

Andy 00:54

Tell me, tell me about what we have going on tonight?

Larry 00:58

Well, we have a fantastic program, we have a special guest, we're going to be talking about how registration rules apply when you visit other states or when you consider moving to other states. And then we have a submission from a listener who wants to get off the registry in Georgia. We're going to talk about that he's not with us but we're gonna talk about that. And then we did have a listener question from inside prison, I guess we should say a reader question that we decided to carry over to next week. And we have some articles and we have a clip of a politician grandstanding. That should be fun.

Andy 01:34

Excellent. Cool. Cool. Cool. So I guess we will introduce the guest we have D is joining us from Pennsylvania. And he is a new patron coming in at a very generous level. And I would thank you so very much. And like I said, he is going to have just a whole battery of questions to throw at Larry and almost like a speed round, like, Am I gonna get a bell? You have one minute to answer the questions. There may be something like that.

Larry 01:57

That sounds like

Andy 02:00

We'll do it that way. All right. D, welcome to the Registry Matters program. And thank you for joining us kind of on short notice.

Guest Speaker 02:06

Well, thank you for having me.

Andy 02:08

Cool. Well, I guess I'll just I'll sit back and relax and watch you to duke it out.

Guest Speaker 02:15

So I guess the main question is, is the whole lifetime travel? Like when you look at Florida in California? What is the deal with like, you know, say 30 years from now I still go to Florida? Am I still technically supposed to register? If I stay there more than three days or two days? I know you guys always argue what that is. But

Larry 02:35

well, I'd have to know more information are you going to be traveling as a person who's registered or a person who's not registered, the time you do the travel?

Guest Speaker 02:43

after you're off all the registries in your in your home state after you've passed? I'm in Pennsylvania, it's 10 years. So I'd be off another year here. And then what would be my your opinion of my obligation to Florida or California or wherever you had to register for life?

Larry 03:02

And that's one of those questions. I think we batted around just a little bit in pre-show. And it's truthfully, if you were to call those states, and you were called more than once, you might get different answers from the States. You would run across some people who would tell you what if you're no longer a registered offender, you don't have to bother with that. And then you would have someone answer and say it well. If you have a conviction at any point in your life, you have to register because your lifetime here. And it becomes murkier and murkier, because like for example, California has just started that removal process, that's going to be very difficult. But prior to that California was lifetime. So if you had anything that would be a registerable offense in another state, it would most likely be registerable in California because of the breadth of how inclusive their registry is. So prior to now, they would probably tell you, of course, you would have to register if you were if you hear beyond whatever the time limits are in California for a visitor or a person temporarily present. What would they tell you now, after people are being removed from the registry? And I do not know if people have actually been removed? I think the process was supposed to start in 2021. I don't know how well it's working. But I don't know what the answer would be. There are sometimes when people ask questions, we don't know the answer to them, and neither do the authorities. No one knows the answer to that question. If you have a lot of paranoia about you, and you believe that the hovercraft is on the horizon, you might would consider registering. I can only speak for myself if I had been discharged from registration. I would be very hesitant to go put myself in jeopardy again because Florida if you visit Florida for that 72 hours of that 48 hours, whichever you believe is the requisite number. They will not remove your name from that

registry list. So I would be very hesitant to go put my name on that list knowing it would never be removed.

Guest Speaker 04:57

Then would the once you're on that Florida registry is that then considered? You're on a registry now? So if you move to another state that says if you have to register? No, would you now? Well, technically, now I have to register again, because I'm on this state's registry, because I know a lot of the states say, well, you have to register, basically, you have to follow your state or our state, depending on which one's worse. That's most of the text I read.

Larry 05:20

That's actually one of the best questions I've been asked because those catch 22s do happen. So for example, if you were to be a non-registered person in Pennsylvania, and you were going to Florida, and you were to be worried about the hovercraft and you registered in Florida, and then when you left Florida, in order to close the loop, you would need to report back into the state of where you're registered, of course, you have no report or no state to report in to. But what if you were out of say, Wisconsin, where they have a nuance in their law that says, if you're moving to Wisconsin, or entering Wisconsin and you're, you're registered in another state, you have to register there. And that happened with an individual who contacted me wanting to know how to get off the registry. He had lived in, Nevada working in casinos and he did not have to register. Because his conviction did not require him to register in Wisconsin. When he gets to Nevada to get his gaming card, he had to register and he decided life on the registry wasn't as glamorous as they'd hoped it would be. Anyway, he went back to Wisconsin, and they said, Well, you have to register here, because you're coming from a state where you're registered. So what if you return to Pennsylvania? And I haven't done the research on this? And what if Pennsylvania said because you're entering from a state where you're registered, you have to register here? I don't think I know the answer to that either. But it is a great question.

Guest Speaker 06:42

That was always one of my one fears. If you leave a state that you have a good is Pennsylvania is a very good state because they ruled that it's a punishment. So if you're prior to 2012, correct me if I'm wrong, but they you're kind of locked in there is they can't really change it after the fact now on you.

Larry 06:59

You're correct because of the Muniz decision, and whatever the other name was, there was a couple of decisions that were very favorable out of the state Supreme Court. And, and people, people there have received some relief. But I thought they passed a more benign version of registration. And they and they were applying that to the people with the older convictions is that is that an error? Did they not do that?

Guest Speaker 07:25

As far as I know, yeah. They changed it. So if you're a prior to 2012, you got to follow the old rules. And then after 2012, you had to follow their new rules that now to follow the lie, I suppose.

Larry 07:36

So Well, again, that would be why I gave the answer I gave at first, if I'm not required to register in a state, I'm going to be very, very hesitant to go to another state as a visitor and register. I can't advise anybody not to do that. Because the last thing I wanted someone to come back and say, well, Registry Matters said that. But I'm telling you just speaking for myself, I would be very hesitant to do that.

Andy 08:01

Hey Larry I just want pause for a moment. I'm seeing chat from a person in Pennsylvania that says they did Muniz but Lacombe and Witmayer, reversed that subchapter H sub chapter I reimposed SORNA. Is that saying that people that were convicted before those dates also then have to register? I'm not clear on what she's asking. But I want to make sure that we're not passing out super bogus information. Well,

Larry 08:26

Well, that's what I was thinking too, that they had that they had reimposed registration, and a more benign form. Okay, so we can bring Theresa in next week or even now if you want to, but yeah, I'm not totally sure that, that I'm the best to give advice about PA.

Andy 08:47

Theresa can would you be prepared to if I unmuted you right now? She might have like, 45 grandkids hanging out. Okay. She said, Sure. All right.

Theresa 09:00

Hey, guys, So I told the 45 grandchildren to be quiet for a minute.

Andy 09:03

Super appreciate it. Hey, Teresa, how are you?

Theresa 09:04

I'm okay.

Andy 09:07

You're the head person in charge of Pennsylvania over there. Correct.

Theresa 09:10

And well, I'm not in charge. Thank God. But yeah, yeah. So there were two cases that went before the Supreme Court. There was Lacombe and Witmayer. They heard them together because they were similar. They both kind of were lined up with Muniz looking for the same decision as Muniz got and basically Supreme Court reversed it and said that it is not punishment, but sub chapters H and I which we are talking about the two different schemes, one for those convicted, or not one for those whose offenses are before December 2012. And one after they're still intact. However, it's pretty disturbing that the basically the same court kind of did an about face with Lacombe and Witmayer when looking at Muniz. So I just wanted to make that clear.

Andy 10:03

And you've got a lot of noise in the background. Can you mute yourself? I'll leave you unmuted, but if can mute yourself.

Theresa 10:08  
I will mute me.

Andy 10:10  
Awesome. Thank you. Appreciate the clarification.

Larry 10:14  
So, all right, so let's, let's move on, because I'm not wanting to give any bad advice.

Andy 10:24  
All right. Let's keep going.

Guest Speaker 10:27  
The next one's more specific about Maryland itself. And from what I understand, they follow like the federal kind of guidelines, and they have like a reduction at 10 years. And just wondering if you have to file for that 10 years, or is that 10 years is automatic, because it like states, if you didn't commit another crime, or another sex offense, if you finished your probation and if you completed appropriate sex offender treatment program. So it's automatic, or that's some sort of appeal?

Larry 10:59  
My understanding is that you have to file for that. And I tried to have a guest, but she's with a mother who's having issues with mobility, and couldn't come on. But my understanding or recollection is you have to file for that. And there's a process that doesn't go through a court, but it goes through the Department of Public Safety and Correctional Services, or vice versa, Department of Correctional Services and Public Safety, whichever it is, you have to file with them. And then they clear you once you submit the documentation that you've done that. Well, what confuses me is, if you're going from a state where you've already done that, then you would not be handed off to Maryland as a registered person. So why would you want to go register in Maryland? So you can go through the effort trying to get off if you're already off?

Guest Speaker 11:48  
I guess that's the question. That's kind of the question around all of these if you're off in your state, what are your obligations? If when you read the details of that state, you should not be on anymore?

Larry 12:00  
Well, I guess, Andy do you have any idea how many times we've had episodes where people went to the registry office ended up having to register medical the rest of their life without having to register? The complexity

Andy 12:12  
That guy in North Carolina, they went like three times and they told him no twice. And then the third time, they're like, wait a minute, you haven't been registered? It was that one?

Larry 12:20  
Yeah. Well, there's also the McGuire case in Alabama, we could go on with people who insist that they want to register, I have a firm belief that if you have been dutifully discharged from registration, not if you're seeking to evade registration. But if you've been discharged from registration, if another state discovers you, and

believes that you would have to register and have an obligation there that they would notify you of such. I have not been given one example in the years we've been doing this program, or the years, I've been doing advocacy of person who had been relieved of registration obligation. And they've been subsequently prosecuted, just because law enforcement stumbled upon them. Is it possible? I guess it's possible. But I tend to like to believe that something is more possible when there's been an incident of it happening. So I would believe that if a person had been relieved of registration properly, had gotten a letter in Pennsylvania, and they were to be living another state. And that state felt they should be registered by either someone ratting them out, or them having an encounter with law enforcement and a criminal history being pulled, or whatever, they would give them a notice of an obligation to register. That puts you in a conundrum if you've get a notice of obligation to register. And you really don't want to register because most people can't pick up and leave really quickly. But that would always be in the back of my mind, as I would pick up and leave really quickly. And go back to where I was.

Guest Speaker 13:52  
Well your twist to is, like you said about the guy in Nevada, if you know, you go there, and then you have to register and then you try to go back to your state. And then there your state's like, well, now you got to register, because you have to register there, even though you're only there for a week.

Larry 14:05  
There again, that's why I don't tend to want to surrender myself to registration authorities if I've been lawfully discharged. And I am emphasizing you have to have papers releasing not that you've released yourself by not complying. But if you've actually been terminated by either a timeout, or they or you've termed out or whether you filed a petition, and the court has granted if you're actually relieved of your registration obligation. I challenged the audience I think I've done this before, if you can show me a case where someone who has been relieved or their obligation to register and who was discovered in another state who got prosecuted, I would like to see it. I've had that challenge open for a long time I've had the other one if you can show me a violation of supervision where the petition says this and this only and don't add things to it. It says that the person showed deception on a polygraph test. And therefore were we the state are moving to revoke. Everybody shows me these petitions and they always say, it shows deception on a polygraph test. And in a post polygraph interview, the person admitted to x, y, z, and ABC and D and bla bla bla. But where you can just show me a petition where it says showed deception on polygraph? That's it. I have not been given one yet. You can show me one where a person has been terminated from treatment because they failed a polygraph I've seen, I think one or maybe even two of those. But this is an imagined situation. And I can understand having a vivid imagination when you're facing significant penalties, but they would seem like it would be more credible to imagine it if you could find some incidents where it's happened.

Andy 15:51  
To circle back super quick, Larry, Brian and chats, it seems to me if you're off, you're off speaking of the registry, how can another state enforce you needed to be on their registry? If you're no

longer on any registry? Isn't that because the language says something the effect of if you've been convicted of something, it has nothing to do with whether you ever had to register, you could have had your conviction in 1910. And you're in a state now that says that you will register as of yesterday. And that's why you have to register?

Larry 16:21

Yes, that's what we covered it last week about the automobile. Since this is a civil regulatory scheme. Each state is able to define the scope of what they consider to be a sexual offender, their list of sexual offenses, and their dates of coverage, and how far back they reach. Like, for example, in Alabama, if you're alive, and you've been convicted, you're covered. And that's what happened to Mr. McGuire. He was he had an 89 conviction out of Colorado, and he was not covered there. But when he decided to move to his home in Alabama, he decided to go into the office and asked did he have a registration obligation? And his idea was the same as the listener? Well, since I don't have to register in Colorado, of course, I don't have to register in Alabama, and Alabama told him well, not so fast. You are alive, aren't you? Yes, you did. You did show us conviction papers from Colorado? Yes. This is you isn't it. Guess what, you have an obligation to register here. And if you try to leave without registering, we're going to lock you up. And that's what that whole case that his brother, who was an attorney took to the federal district court, which is still pending on appeal in the Eleventh circuit, as far as I know, there has not been a final decision on the McGuire case. But yes, you can, you can have an obligation and one state expire. And that doesn't stop the other state from imposing it on you because they can define what a covered offender is more broadly than the state that you were convicted in.

Andy 17:50

And I also want to circle back on that specific thing. Every state is kind of like their own country. And I'm doing like air quotes on the screen here. That New Mexico has their own rules, their own laws, their own regulations, and California has their own and Montana and everyone is their own independent sovereign. And they get to make their own rules, as long as they don't breach what the federal stuff would tell them to do something along those lines?

Larry 18:14

Well, I would say not what the federal tells them to do, what the Constitution prohibits them from doing, okay. Everything that you want to do as a state you can do as long as the constitution doesn't preclude it. And that's what people think about this because they look at the AWA, the Adam Walsh Act guidelines. And they say, gee, the Adam Walsh guidelines recommend this as a 15-year tier one. I said, so what, that doesn't preclude your state from declaring at a 25 year or a lifetime. And you got to prove that it's unconstitutional, all the things that you're having to do while you're registered, you've got to prove that it's unconstitutional. So they can have the term as long as they want it to be. And so yes, that that would be correct. If those recommendations are implemented in such a way that they that impose too many disabilities and restraints, then you have maybe a viable constitutional challenge, but the feds can't tell the states what to do.

Andy 19:15

Oh, continue on there D.

Guest Speaker 19:18

So my last ones another specific state. But before I say that, I asked what your advice would be to everybody if they are trying to move to a state. Do you think hiring a lawyer in that state who is specifically geared to understand the registry info is even helpful, or is it everybody's really just going to tell you? Yeah, you know?

Larry 19:41

I love that question. I generally do recommend hiring lawyers, it's kind of like the business I'm in. But I always put the qualifier that the lawyer actually has to know the law that they're giving advice on and people tend to want to call lawyers that are not really apprised of this issue in the nuances of registration. I've been, I've been providing training to attorneys in the state for I've even forgotten how many years. And it's amazing how many of them don't understand the various nuances of the three versions that we have of registration, and the federal interplay. And they believe that there's a federal registry. So I would advise a person to try to seek out competent legal advice, if you're planning on moving to another state. What I would be more emphatically what I would advise you not to do don't call the state registry people. I mean, the place where you're going to get the best advice is not from the registry office, because they do not want you to come. I think I remember telling you that thing. yourself Andy a few years ago, when I said they gave you they told you the most gloomy scenario, because they do not want you to move there. Oh, totally. Yeah. So. So what? And also

Andy 21:01

Then it calls into question, Larry, that the whole thing about having the family and some kind of support system that kind of calls that into question. I mean, yeah, we want you to have support, but probably only where you are now Don't come here to try and get support this. I mean, it's kind of it. It doesn't feel genuine when they do it that way.

Larry 21:19

That is That is correct. I had that argument one time with a with a client. And he said, I would be more stable. If I were in the state where my family was, I said, Yeah, you would be. But that's looking at the global the greater common good. And that's kind of liberal mumbo jumbo there. I mean, when we talk about the common good, I agree with you. But the people who are running these departments of probation and parole, they're not looking at it from the global good. They're looking at it from what is going to minimize the risk that we have to take here. And having that person come when you add the compounding effect of how many people come to a state that have no attachments previously. It's just not it's not an enticing position. I have not heard of a state that welcomes people forced to register. To their state. I'm not aware of that state. If there is one. It hasn't surfaced to me.

Andy 22:18

All right. D continue? Please, sir.

Guest Speaker 22:21

So then, when you say qualified, because I've done a lot of googling, I think my wife called about 10 different lawyers and got,

I think, six different answers. But how would you even go about finding someone qualified, that actually knows what they're talking about?

Larry 22:39

That is a great question. And I wish I had the answer of how you find I know that the state advocacy groups usually they have a few lawyers that they rely on, we do in our state. And I know Florida does. I think Florida does the Gil Schaffnit comes to mind a lot. Georgia with the litigation we've been doing, we've got working with a guy named Mark Yurachek. He's been doing a lot of work on GPS monitoring. There's usually in the states where there's either an advocate or a full affiliate of the National Association for Rational Sexual Offense Laws, that would be a starting point. But it is tough, because too often, they're happy to take your money, and they really can't help you. The best thing they can do is to tell you if they really don't know what they're doing, and not try to sign you up. Of those 10 of the of the phone calls are made how many were willing to take a fee?

Guest Speaker 23:38

Not that many, actually, only a couple actually wanted any money. Most of them just told you to go to the state basically and ask them and a bunch of them said, we're just fine. Move there. That was Maryland, by the way, for that 10 year.

Larry 23:53

So but yeah, this is gonna be something we'd like to get back to all another episode, because it's fascinating. It's the type of issue that affects either a lot of people right now, or potentially a lot of people in the future. Because our country is mobile, people move if you just watch the census numbers come out watching the population events, people move, not just because they're looking for a better place to avoid the most difficult registry requirements, but they're also looking for greater economic opportunities. And so this, this is something that keeps coming up. And we can visit this multiple times. And it never gets boring to people.

Andy 24:37

Because every state is different.

Guest Speaker 24:40

I don't even mind paying somebody to figure out but it's like, you know, I had the same thing during conviction that I paid a lawyer and an end up the public defender was 10 times better. So you know, I don't mind paying for it, but it's unfortunately you don't know who to pay. And obviously it's not even their fault because it's a hard answer to come up with because it's, you know, like some of the lawyers said They said, well, it just changes all the time. So it's so hard to even know.

Andy 25:04

Larry, I don't, I might be out of line calling this out. But isn't this an area where you could help us people that we people, the lay people figure out if the attorney because they can blow smoke up our tush all day long? And we don't know necessarily if they're qualified to represent us, but you would be more qualified to know if they're able to handle the case in XYZ state?

Larry 25:26

Well, I would think I could certainly offer some help in that regard. Many times attorneys don't like the type of questions I asked them. When attorney tells me that it I've learned this from trial and error. But when attorney tells me about how great they are, particularly when they take a case on the front end, when a person's pre-trial, and they tell me that you've got nothing to worry about. The first thing I asked him tonight trials, have you done in the last two or three years? Of course, the answer is zero. I haven't done any trials. Then ask them how many cases have you resolved in this particular jurisdiction, because if you, you could have an attorney who does wonderful work in one county, and they don't have the same success rate in another county. They don't have the same relationships with the prosecution. They just don't have the same standing another county, so they might not be able to get a favorable result. So I started asking questions like that, and they tell me that maybe we should go look for another attorney. You know, that's what I was helping you remember a friend from Georgia that we got hooked up with, with an attorney and they got his conviction overturned a few years ago? Mm hmm. I do I do. Well, of the of the half dozen lawyers we visited in the metro Atlanta area. I was not very popular, but a couple of them because of the type of questions I asked. But we got the right lawyer, we got the job done.

Andy 26:54

Yep. I'm with you on that? Well, I mean, even like, my attorney didn't like me. I was asking him questions like you don't like attorneys very much. I said, I'm just skeptical of the Voodoo and magic that I need you you're a gatekeeper. So I'm asking you questions, because I'm about to drop a big dump of money on you. So like, maybe I can ask you questions about how you operate.

Larry 27:14

Now those were fair questions, you were asking him?

Andy 27:19

All right, How much more? Are we done here? Or do you have more?

Guest Speaker 27:23

The last ones is just more specific about the Virginia thing? I don't know if you have much information on that, because they, they have like lifetime and 15, as far as I understand, but you never off the 15 you have to petition the court and the judge has to release you from the 15. I was wondering, I also wonder about the same thing in Maryland? Is that something you can do before you move to the state or not?

Larry 27:45

I have never been aware of a person being able to petition for removal from a registry that are not subject to. And here's why. Okay, when we talk about being overworked and understaffed, that's not necessarily the case. But whether you're overworked or understaffed or not, you don't want to do any extra work. And if a person files a petition, and I've received that petition, and they're not living in my jurisdiction, the first answer I'm going to write down is going to save me a whole lot of work, I'm going to say this person is not subject to Virginia registration. Therefore, this is not a controversy that's ripe for deciding. This is a hypothetical, they

may never be subject to Virginia so I would write up a two paragraph response, and ask that the case be dismissed. If I can think of that they can think of that. The way I read the Virginia law, as we were looking at pre show, you can actually file a petition for the tier one. So the tier twos, the tier threes are those who have multiple convictions that it wasn't clear, if the multiple convictions within the same case, number, if that's considered multiple if you have to have two separate cases. But the tier threes or a person with more than one conviction is not eligible to petition. but it said a tier one could petition after 15 years and it states that they shall be released if the judge finds that they that they don't pose a risk to public safety. And a tier two can fall after 25 years. My problem with this is that those petitions are not required. It's just like California, just like the states, under the rigid federal criteria, those people can just ride off into the sunset. Now you can have a process for that extra five-year reduction for tier ones it's available. You can have a process to make sure that they beat all those things on the list. But if you just want to let the if a person wants to stay on the registry for another five years, they shouldn't have to file anything for a tier one because that five years is reduced from the 15-year tier one basic obligation. So if you don't want to get treatment, and you don't want to go through all the Kabuki of filing a petition, they could still just let you ride off into the sunset after 15 years and they could let the tier twos ride off into the sunset. They don't do that. Why not? I already know the answer to it but why not? It's creating work for attorneys is what that is. And it's also making the victims' advocates happy giving them another chance to come in and bash the person and to say negative things. And so it's another obstacle to keep from actually thinning out the registration list, but it's not necessary. It's not required.

Andy 30:27  
Okay. D Anything else?

Guest Speaker 30:30  
That's all I thank you guys very much.

Andy 30:33  
You're welcome. You can't do you want to stick around, you're welcome to if you want to chime in, or we can. Let's go and kick you to the curb and all that.

Guest Speaker 30:39  
So I'm gonna be quiet until I hear something crazy.

Larry 30:41  
Oh, we're gonna do Georgia next. So you might find this interesting.

Andy 30:46  
Yeah, if you if you have any questions that you would like to chime in. RM Promo: 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 RegistryMatters.cast@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 slash RegistryMatters. Not ready to become a patron, give a five-star review at Apple podcasts for 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. Like Larry said, we're gonna move over to this Georgia segment. And I would like to then then clarify because you put this here for me to say about providing legal advice. Yes. But that also applies to the last segment that and in general, neither of us are attorneys. One of us knows a lot more about law. If you want computer questions answered, that's me. But legal stuff, that's you. Anyway, I'm, so we got a question from a new listener. And he is asking, seeking any guidance that may be available for the procedure to file paperwork and subsequently be classified and removed from the registry. I can't afford an attorney in my case, but would like for me and my family to finally be free of the shackles of remaining on the registry. any guidance you may be able to provide me would be greatly appreciated. So what where do we go from there?

Larry 32:30  
so well. You talk to a person, right? I did. I don't I talked to him. And I think he has a good chance at getting off the registry.

Andy 32:40  
Okay. Um, and why would those? Why do you think that?

Larry 32:45  
Well, there are a number of reasons. First, he's residing in Georgia, and he was not convicted in Georgia. And that changes the dynamics significantly. And second, has a victimless crime. And that makes a huge difference as well.

Andy 33:00  
Okay, so my conviction occurred in Georgia, and you're saying this person was not convicted in Georgia, but living here? How are we different?

Larry 33:09  
You're different in that you under Georgia law, you have to file in the county where you were convicted. A person who wasn't convicted in Georgia has the opportunity to file in any one of the 159 counties in that state. And all you have to do is be residing in one of those counties. Now I'm not advising people, I would never do that, to go shopping in the 159 counties. But I can tell you this, of the 159 counties, there are counties who have a very large approval rate of those petitions, a very large number that are approved, and are counties of 159, who approve virtually none of them. And if I were a person with a non-Georgia conviction, I do not believe I would plop myself into one of those 159 counties that seldom discharges anybody from registration, I just don't think that would be in my best interest to do that.

Andy 34:04  
So no matter where I live in Georgia, so I just removed myself from probation. So it's just easy, I can just kind of pick up and move somewhere in the state without a whole lot of grief and aggravation. But I would still have to return to this county to do any sort of further modifications?

Larry 34:23  
In terms of your registration obligation, you would have to file in your county of conviction. But this person, what made his odds go up what makes him a very good candidate of the many things that makes him a good candidate. Because that he can file in the county he lives in and he happens to be living in Newton County,

which is just east of Atlanta. You go through DeKalb and then Rockdale and then Newton and it's still considered metro Atlanta. And Newton is a pretty tolerant place. It didn't used to be that way. But Newton has really changed and the Superior Court judges in Newton County are not nearly as bad as they once were. So he's got 20 years of sobriety since his offense happened. He's got, I think, either 12 to 15 years of non-supervision since its offense happened. And as I pointed out earlier, he has a victimless crime. And when I say victimless crime, so the Newton County Superior Court judge had that been a Newton County conviction and had there been a real victim, that would be the risk to that superior court judge, and the district attorney. Remember you file the petition and you serve the district attorney and you serve the sheriff. The registration official is the sheriff. So you serve these two parties, there would be a chance that that victim would have either connections in the community, or that there would that would have been a sensationalized case, that would just be too hot to touch. Because it was so bad. But we have a case here where it was a sting operation in Florida, and the person traveled from another state to Florida to meet a minor, of course, there was no minor, they're just law enforcement. And then that was turned over to the feds, and the feds prosecuted him. And so he has a victimless crime. We don't consider the law enforcement officers to be victims. I mean, they're witnesses, but they're not victims. So he's got a victimless crime. He has nobody connected to Newton County. He has a relatively tolerant County, and he has a DA that would not have any axe to grind with him unless the sheriff has some dirt on him that gives the sheriff angst. So all those things make him a wonderful candidate is too bad that he can't afford a lawyer.

Andy 36:42

And then let's move on to your second point that he has a victimless crime. Can you explain what the victim like? Why is it such a big deal that it would be a victimless crime in this case?

Larry 36:53

It's such a big deal, because that's where the pressure often comes from on the removal because the states insist on bringing the victims in some cases that's required by statute and some case, they do it by practice, because it'll sink your petition. They'll do it even though it's not in statute in California, it's in the statute, but that's one of the reasons why I say that that's gonna make it very difficult. But what would happen, in the case of this particular person, there won't be anybody there, the cops are not victims, so they won't be there. But if he had a minor, who was still living in Newton County, there would be the real possibility that that person, maybe an adult now would show up and say that I'm traumatized for life because of this. And that puts pressure on the both the district attorney and the superior court judge, but he's not going to face any of that, because his crime is without a victim.

Andy 37:49

Interesting, interesting. Um, and let's go over we sort of touched on the previous segment about needing an attorney, this is something that you harp on all the time, why are you so obsessed that people should not file their own that's called pro se, P r. o space? Se. I think that's the like the Latin term for it.

Larry 38:08

That is correct. And I'm obsessed about it because the stakes are high. If the registry is as bad as what we say it is, and I take your word for it, it really is that bad. That means the stakes are high to get relief from the registry. And the average person is way over their head when they are attempting to navigate the hurdles. Georgia law provides a process for removal under anybody in Georgia is OCGA 42-1-19. I believe it is. But let's go through the basics. I'm obsessed because the district attorney is the first person you have to notify. And they're going to be your opponent. Their lawyers, right? The sheriff, although many sheriff's very few are lawyers, they generally have a department of any size has access to legal advice, either the county attorney or they may if it's a large enough department, they may have their own attorney. So you've got people who have legal resources and training and knowledge which you as an average person do not have. So you're going into a game you do not understand when you're trying to be removed from the registry. And the judges, the referee who is supposed to be neutral. And the judge is not going to help you get through this because the judge is also at risk on removing you from the registry. If you don't do the job, right. Your sink, you sink your ship. And this is a high stakes game. And that's why I'm obsessed because I want you to win. Play the Bear Bryant clip. The reason why I'm obsessed is because I'm trying to win the game.

Andy 39:58

sorry, it took a second.

Larry 40:01

That's why I'm obsessed.

Andy 40:06

But tell me what happens if I call or this individual calls? Our DA and goes, hi, I would like to get myself removed. And I'm going to take you to court. Can you tell me what you think about me? What happens in that kind of in that situation?

Larry 40:22

Well, it would be very bizarre if that if that conversation actually went down. But, that is exactly what needs to happen. But when you call the DA, like, this person got angry, because he called the DA, they wouldn't give him advice. And I said, Well, they're your opponent, they have a conflict of interest they are on, they're going to be in the very case with you that you file. And they're going to be on the other side, arguing for the state of Georgia. Therefore, they have an ethical conflict. But assuming that, that you could find a DA that will talk to you, you need to have a conversation about how they are going to react to the petition. And I stress this because I hate to see you spend 5000 to 7500 dollars if you have no chance of winning. So it's imperative, you know, what the DA and the sheriff are going to say? And when you have an attorney that their attorney can have that conversation, either in person at a coffee shop, or by phone, they can have the conversation? Yeah, what I'm going to file on behalf of my client, and then the client at what is your office position going to be. And you need that information that helps you decide if you want to continue to move forward with your removal process petition if you're going to actually go forward. And it helps you to decide how much more money you want to sink into it. Because you may have a DA that says, Well, you know, we, we don't really have any particular angst with your client pro se. But our office has a

general policy that we object to all of these, but it's not going to be very vocal objection. But we are going to say that we object. Then that will empower you with information that you don't have, you know that a DA is not going to come in with all guns blazing. But you know, the judge being that the DA is taking oppositional stance, although it's not a strong oppositional stance, you know that you need to empower the judge. So that tells you need to get a psychosexual evaluation, a current one. And what everybody says, Larry, you don't understand. I got a treatment in 2004. And I had glowing reviews. And they loved me in therapy. And I said, Well, that was 17 years ago, I want to know about now. And so that that would tell you that you need to get a current eval, that it's worthwhile to continue with your effort to be removed. But you need to give the judge some additional ammo, because the DA is going to be opposed to you. That's why these conversations need to happen.

Andy 43:00

And what would you recommend as the most critical point in this whole process?

Larry 43:06

it's imperative that the conversation with the DA's Office and the Sheriff's Office take place, and particularly in Georgia, since it's a sheriff that does the registration. The sheriffs have an awful lot of information on you, particularly the aggressive sheriffs that, that monitor the people closely. They go out and collect intelligence from neighbors and you think this is totally benign until you file the petition. But if a neighbor like say, You're single person, and you've never been married, and you don't have any children, and the sheriff goes out and says we know we will keep an eye on guys because he's on the registry. And we're just wondering if you've seen anything out of ordinary any kids around? Well, yes, matter of fact I did. A couple weeks ago, I saw some teenagers hanging it out and blah, blah, blah, well, that goes in their intelligence file about you. All the stuff that Neighbors tell them about you can be used against you later when you seek relief from the registry. So therefore, you've got to know what's in the sheriff's file, what they're going to come at you with, if you have a really, really good relationship with the sheriff, and they've told you that they would like to see you off the registry. I still have a little bit of dubiosity, but that goes a long way. But if you have any kind of bad experience with your local law enforcement, if they're constantly harassing you, and leaving flyers on your door, and it seems like they're being overly aggressive, there's a good chance that they're going to try to hurt you when you file to be removed. You need to know this unless you just enjoy burning your money. Because that's what that's what you're goana do.

Andy 44:49

so let's talk about a retreat option. It's why would you not move forward any person with I mean, shoot as I mean, my handlers kept asking me, hey, when are you going to try and get off this and I was like, I don't know. I'm, like, allowed to, so I wasn't expecting like, I like an entitlement out. Like, I mean, the judge sentenced me to so long I am expecting to do so long. But so why would someone go? I'm going to not burn my money. I'll wait till something more opportune. Why would someone do that? Why would someone with good sense, but not one off the registry?

Larry 45:20

Well, in terms of wanting off the registry, it I would think if you didn't want off the registry, that there would be something wrong with you that you wouldn't have good sense. So the question I'm asking is, even though it would be very irrational to not want off the registry, as the coach said, we're trying to win this game. And what we want to do is strategically play this game, to up our odds of winning the game. Now, if I'm advising a person, on strategy, I am not going to advise a person to go into a firing line, when there's a hotly contested DA's race, I'm not going to give that DA the chance to pick out my client, and in a reelection cycle, and come in and say, and if you reelect me to be the district attorney, I'm going to make sure that this group of people is treated as bad as possible. And a sheriff could do the same thing because they run for election. So you don't want to put yourself in the line of fire. Unless you have lots of money to burn. And you don't mind waiting two years to be able to file again. But just what both the state of Virginia and Georgia require coincidentally is you have to wait two years after you've been denied. So if you could, if you could wait six months out of an election cycle if a judge is gonna retire, and you've heard that, well, that that frees that judge during that last term to do what they want to do. So you say, well, gee,

Andy 46:54

Like a lame duck session, so to speak?

Larry 46:55

yes. So a judge or a DA that's not running for reelection. They have a lot more freedom. I remember, there was a president recently named Obama. And, and he had an open mic where he said, after I get reelected, I'll have more flexibility when negotiating with Putin, you remember that?

Andy 47:14

Sure. Yeah.

Larry 47:15

Yes, he got a lot of criticism for that. But that's the reality of our system. So therefore, I would consider all these things in terms of strategically positioning myself, where I would not be walking into a very hostile situation politically. I know this is not the world the way it should be. But it's the way it is. And you filed a petition at the wrong time, you might find yourself being vilified. So you need to have an attorney who's somewhat politically savvy, which is not a gift that most attorneys have, unfortunately. But you need to have asked that question. Is this the best time politically to do this? And you could do your own homework. It's not that hard to figure out when political good times when something's politically good or not so good. And that's what I would tell everybody do to try to do the political analysis, stop thinking that it doesn't matter, because it does, and figure out what the political considerations are, and make your decision based on those because that's the way the system works.

Andy 48:19

Will in chat said that you said that expression wrong? It's supposed to be it's not the way it should be? It's the way it is B, you said that we have that expression, right?

Larry 48:30

He's correct. I haven't said is be lately.

Andy 48:34

No, you have not. Um, but on this subject, just like it? Why do you have to make everything about politics all the time, Larry.

Larry 48:45

Why do I do it? Because that's the system we live in folks. We live in a in a in a country that has a political system, we govern ourselves through that system, if I pretended it didn't exist, then I would not be serving you. Well, I'm telling you that that these are considerations. They can be very significant considerations.

Andy 49:05

I the way that I'm framing that, though, is that we have a law. In the case of Georgia, it's 42 dash whatever it is, that says that when these conditions are met, you can do these things. But you just described an example where this may not be maybe you're sort of outside of the margins a little bit or things may be a little bit more complicated that you still have to take the politics into consideration. It's not just black and white. It's not just Hey, this is checkmate, you're done. There are other things at play.

Larry 49:30

But that's correct, because we have to elect those district attorneys and we have to like those judges in many states and Georgia is one of the states where the judges are elected. And if you don't think they think about community sensitivity, just ask Judge Persky.

Andy 49:50

All right. I don't think we have anything else here unless a D you're still there. Do you have anything you want to chime in on or Larry, do you have anything else you want to cover before we move this On?

Larry 50:03

Well, I would like I'll take that on as I would like for the person who, who made the inquiry to consider really seriously having an attorney, he has an excellent chance. And in my view, if everything he told me is true, and he, he, he truly can afford it. I looked up enough information about him. And he admitted that, but I asked him, I said, Well, you know, since I know, the county, and I know where you live, that's not a poverty zone. And he said, Well, I really would prefer to spend the money on starting a business. And I said, Well, you know what, this may help your business to be a whole lot more successful if you're not on the registry.

Andy 50:41

Yeah, no kidding. Because we've covered will in chat has sent me story after story after story where they almost getting doxxed major newspapers are putting articles in papers talking about this local business person wants to run a cake shop or something like that. And then the people go up all up in arms because they're running a business that perhaps would have children attending. It's not like you're running a bar, let's say where kids would never be present, but something where kids may be patrons. And it sounds like a bad idea. And then there's almost like a town revolt, and they go out there with pitchforks and torches.

Larry 51:17

Yep. And that's what I was trying to convey to him is that he doesn't know the system well enough. That's not what he does for a living. And if you look at that, and I think I said four it's 42 section, the removal process and George's 42 dash one, dash 19. But when you look in the highlighted sections such petition shall be served on the district attorney in the jurisdiction where the petition is filed, the sheriff of the county where the petition or where the petition is filed, and the sheriff of the county where the individual resides. Service on the district or sheriff may be made by mailing a copy. If petition for releases denied another petition for relief shall not be filed within a period of two years from the date of the final order of the previous petition. If you've got two years to burn them, go ahead and do it. But I strongly urge you not to do it yourself. Unless you have significant legal training, and I still wouldn't advise you to do it yourself. Even if you have significant legal training. I just can't i can't advise people to do these petitions themselves that they say, Well, I have the right to. Yes, you do. You know, if you've got that I have the I have the right to fix my car.

Andy 52:29

And just before we close that all out, just do you think is there any benefit to doing it pro se? Is there any level of sympathy or concession maybe that's not the right word, that the court would then provide you of being just Joe Blow off the street, that they're not going to be so formal and harsh on you for not knowing the rules and procedures?

Larry 52:49

I don't see it that way. I think they expect you to know the rules when you proceed pro se. In particular, at the superior court level. You know, that's a court of general subject matter jurisdiction. It's not a small claims court. So it's not a court of limited jurisdiction. They expect you to know what you're doing. And it's just I mean, the criteria, the court may issue an order relief in the individual from registration, or residency or employment restrictions and whole were import if the court finds by a preponderance of evidence that the individual does not pose a substantial risk of perpetrating any future danger of sexual offense. That's actually a pretty good standard. The court may release an individual from such requirements or restrictions for a specific period of time. There's, no shalls here in Georgia, and I just don't like that those odds I like going in armed with the information of where the DA is going to be where the sheriff's is going to be if they have any, anything that they're going to say about the client. And I want to know if we're going to have victim notification, what the victims are going to say, I'm going to if this is a crime where there would be a potential victim, I'm going to hire an investigator, I'm going to find out what that victim is going to say. Because I want it said before we go to court

Andy 54:08

And remind me about standards of evidence where does preponderance fall on the scales?

Larry 54:13

That is slightly better than 50%? So more likely than not.

Andy 54:15

So if the judge feels like you have slightly more than 50 50, a crapshoot, that or roll of the roulette wheel. If you feel slightly better than 50 50 then maybe they'll release you.

Larry 54:28

Yep. And that's the that's the that's the downside. It's the may, if it said the court shall release you. But it says may. The preponderance is the right standard, but

Andy 54:43

Okay. Okay. So I can't imagine that there's anything lower.

Andy 54:51

Alright, I think we are done there. We can move over to this clip. Do you want to set up the clip from the good senator?

Larry 54:58

Yes, I believe this is Something that just basically was predictable. We talked about it on episode 149. And I don't even know how we got to that point. But we were talking about money for dead people. The government paid dead people money. And I said it's only a matter of time before there will be criticism of the payments that are being made as a result of the stimulus packages, there's been what three or four of them now. And I said that they will be the criticism of paying money to dead people. Lo and behold, I came across a Senator John Kennedy from Louisiana I believe he's from so this is not the Kennedy family from Massachusetts, but Senator Kennedy had, he had something to say about paying money to dead people.

Andy 55:41

By golly, I hope my tech works, it worked in pre-show, here we go with a clip. And it didn't work the way I wanted to do.

Senator John Kennedy (R) Louisiana 55:51

For example, we waste \$144 billion a year, every year on improper payments. We send checks to people who are not entitled to receive them. For the earned income tax credit, for example, we spend money to on people who don't exist, or aren't qualified to receive Medicaid. We even send money to dead people.

Andy

All right.

Larry

And all what he says is true. And there's no way to avoid sending money to dead people. My friend, Albert's mother-in-law passed away last weekend, and she got paid her Social Security benefit, but she did not live long enough to be entitled to her for that month. So she was paid and that money will be owed back to the Social Security Administration. The stimulus payments that were forced out quickly, because of the dire economic circumstances and factors of we wanted to we could play what I said, but we were in an economic calamity earlier and 2020 when this when these packages were put together. And they needed to get money into people's pockets who were not being allowed to work by governmental decrees. And I said, it's just inevitable that they'll pay people they're dead because they're using 2019 and 2018 Tax Return information. And believe it or not people die daily. In this country,

Andy 57:37

Oh, what? No, stop it.

Larry 57:38

So we've paid I'm sure we've paid hundreds of millions, if not billions, of dollars of stimulus payments to people who were deceased at the time the payments were made. And the government will attempt to try to recover those. But the point I made in pre-show is that this is a part of a compassionate society. When we pay people, when you're receiving Social Security benefits, sometimes you get caught up on the other side of that Social Security will receive a report that you're dead. And it'll be a transpositional error in the social security number. And a data entry error will cause a person to be declared dead. And it's not the right person. And when that happens, and they dutifully terminate your payment and you contact them and say, Hey, I'm alive. They day nope, you're dead. Now, if you're living, Social Security, check the Social Security check, you probably would not be amused by that at all. So we build a lot of these programs with the intent of honesty and integrity. And we know that when people are receiving money, whether they be businesspeople that are receiving lucrative government contracts are whether they'll be individuals receiving public assistance, we know that people will always tell the truth, we know that. But some of the rules are based on retrospective budgeting, and some of the rules are based on perspective, budgeting, in terms of what you anticipate your income will be. If it turns out that you in good faith, projected wrong, you may have an overpayment and vice versa with retrospective budgeting. When you do retrospective budgeting, it makes it harder to get paid because you go to the food stamp office and be totally broke. And you don't care so much about retrospective budgeting. You want food stamp relief, right? You need something to eat. And right did they ask you to build we need to do a prospective budget. You're not amused by any of that stuff, because you're in dire straits. So we try to build a human compassion into these programs. And you end up as you do with anything that deals with human nature. There will be people that will exploit that. But I got news for you, Senator Kennedy. Our federal budget deficit is so large is that if I took your number of \$144 billion dollars at face value. Now, we cannot assume that all those payments were honestly made. That's the amount of overpayments that were made. That would not come close to closing the deficit gap, not even close. The last fiscal year, we ran \$2.1 trillion, the previous fiscal year for COVID-19, we ran \$984 billion. So I got news for you. And the first part of that clip, he was talking about that Biden wants to raise taxes, he wants to raise the gas tax. And he says when in fact, he wants to raise all taxes? Well, he hasn't said that. But we do need to revenue folks because the budget is way out of balance.

Andy 1:00:45

Tell me, you think, though, tell me if you think that had they gone too small on kicking out payments? There would have been similar criticism later in the game of how much people are suffering. I don't know that there would have been a way to do this, like, too little too much just right, like, what is the Three Bears? I forget the story?

Larry 1:01:09

Well, we'll we won't know until we unpack this in the future. We're seeing some early indications of some inflation pressures. And it may be that there was an overstimulation, we'll have to unpack this and evaluate how much stimulus was done. And whether it was too much or too little. We were able to unpack after 2008 2009 recession, that the anemic growth that the Republicans complained so much about was because of very little stimulus, they didn't want to do any stimulus. And they called the \$784 billion stimulus. They refer to that as the porculus. And that did keep a lot of government employees, that locally and state employed that would have had to been let go public safety vital to the people. The states were hemorrhaging money and didn't have money to pay their employees. A lot of that \$784 billion went to keeping people working and vital teachers, you name it, fire, firefighters, and so forth. But we won't know if the right amount of stimulus was done. But we are seeing there are shortages of key materials and raw materials, there's price pressures, and we may have some significant inflation. We may realize we overstimulated. But you're right. If we didn't do enough, they would be looking back like we did in 08 09, the great recession. We didn't do enough, according to the experts who've unpacked that looking back with more than a decade of time.

Andy 1:02:39

Larry, we are at 101. And I don't know, do you want to cover any one of these couple articles? Or do we just want to jump ship?

Larry 1:02:48

Let's just carry them over to next week. And let's get out of here. Because we've got some patrons to recognize, don't we?

Andy 1:02:54

We do we have. We just have one new one. And it is a Peter. Hello, Peter. And he Oh, let me just mention this. I just recently

converted Patreon over to where you could do annual memberships. And he is the first one and I can't thank him enough. It was at a very generous level. And I appreciate it so very, very much. As does Larry and we are getting closer to that 100 goal where I will do some crazy sax for you people.

Larry 1:03:20

That looks like I'm looking forward to that. And then we have we're getting more and more mail from the prison audience. And we've got one that I intended to take up this week, but it's just too long from the Orange county jail in New York, but you're not New York apparently has an Orange County. But we're gonna do like LeShawn's question next week.

Andy 1:03:44

Perfect. Well, with that, Larry, I will bid everyone in chat to do there was a great conversations going on there. How you get there is become a patron and then you can join the live stream chat and watch us record this whole thing live. And, Larry, I appreciate you providing all the information and D Thank you for coming on. And I hope everybody has a great rest of the weekend and I will talk to everybody soon. Thanks, Larry.

Larry 1:04:08

Thanks for having me.

Andy 1:04:11

Good night.

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