



Registry Matters Podcast

Episode 185

Recorded 7-17-21

Andy 00:00

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Larry 00:28

I did indeed. I saw a picture show about two weekends ago on TV.

Andy 00:33

And it was a pretty recent movie, maybe like one that came out in the last year or two.

Larry 00:38

Not that recent. I believe it was 1986.

Andy 00:42

You're just getting around to it?

Larry 00:45

I may have seen it before. I think I might have seen it before. But I certainly don't recall it as vividly as I do the most recent viewing that I saw.

Andy 00:55

And the movie was Hoosiers, I believe it was?

Larry 00:59

it was. It was about a basketball coach that had been fired at a college level and went to some town in Indiana that nobody had ever heard of. He got a job. And the town was not really pleased with his coaching style and they tried to run him out of the territory.

Andy 01:17

But I'm assuming that part of the show was that he ends up winning.

Larry 01:21

He does. He does end up winning.

Andy 01:23

And they probably like him because he's a winning coach. And everyone likes it when their team wins. Nobody likes it when their team is garbage. Garbage.

Larry 01:31

Especially in Indiana. They're big on their basketball.

Andy 01:34

I think they're big on sports in general. But yeah, I can see that being that type of thing there. Tell me Mr. Larry, what do we have this evening for an agenda?

Larry 01:44

We have so many things. I don't even think I can recollect them all. We've got questions from behind the walls. We've got questions from the free world. And we've got name that person a new segment that we're going to start and we have just loads of fun lined up for tonight.

Andy 02:05

Phenomenal. All right, well, then let's kick this thing off with I guess this is kind of a maybe a touchy situation of we both do dual roles over here. But I'm wondering if you could explain the NARSOL Scholarship Program. A comment, I found something online that I shared with you that someone may have had some personal gripes with the scholarship program and I was wondering if we could maybe touch on this for a minute just to get a clear understanding what's going on with the scholarship program that NARSOL has for the conferences.

Larry 02:37

Sure. We've had that program for a number of years. And what we've done is we've created a program that provides assistance for those who are limited means that wouldn't necessarily be able to attend our conferences. And we provide a waiver of registration fees, which there's no direct out of pocket expense per se, except for us feeding them the banquet and the celebratory events that we have. But then we provide a limited amount of cash direct assistance for those who attend the conference at the conclusion of the conference. And it's based on being eligible for a means-tested government assistance program.

Andy 03:16

So the posting said that NARSOL does not like people who are on government assistance, which I think is kind of hilarious thing. But that seems preposterous considering that eligibility for the scholarship is dependent on a person being means-tested in those different government programs. Just for clarification, because like I honestly, I think I could back my way into understanding what it is. What the opposite is of if someone is... I'll you'll explain here in a few second. But what is means tested? What does means-tested mean? That's kind of circular.

Larry 03:45

Well, the definition would be that they have demonstrated to either a state or federal agency that they have limited financial resources. And some examples might be like Supplemental Security Income, SSI, Temporary Assistance to Needy Families, or TANF, Medicaid, or the Supplemental Nutrition Assistance Program or SNAP that was formerly referred to as food stamps. There are others that would qualify as means-tested. But those are the most well-known means-tested. There'd the Women, Infants and Children, the WIC program, I think that's still in existence, but they do an income analysis and asset analysis, and they do all that. And if you qualify under those rigid guidelines, then you're eligible for those programs. So, we use if a person is not on a means tested program, then they would not be eligible for a NARSOL scholarship. So, it would be difficult to conclude that we don't like people who are on government assistance when that's the only way you can get a scholarship is by being on government assistance.

Andy 04:41

What is the opposite then? What are programs that are not means tested?

Larry 04:46

Oh, there's a lot of them. And most people that are not middle class don't like that. But there would be basically what we would call entitlements. They're not means tested. Social Security benefits for example. Unemployment compensation would be another one. Most of the benefits from the Veterans Administration are not means-tested. These are entitlements that a person receives without regard to their income or assets. You can get social security, retirement or disability, with very little emphasis on your assets. Now, on Social Security or retirement, if you take early retirement at 62, or any time between that and your full retirement age, there are limitations of what you can earn and you would begin to owe a refund to the Social Security Administration. But, and same thing with disability, there's very low income limits you can earn. But you can have all the passive income you want, you can have all the assets you want, you just can't be... They call it disability. So, if you're able to work, that disqualifies you, but it's not a means-test, per se, but that would be some examples of things that are government programs that are not means-tested.

Andy 05:51

I'll add in there a couple of weeks ago, we talked about a friend of mine who got jammed up for probably polygraph whatever- He's getting military retirement. Gets just some amount of money gets deposited every month, even though he was locked up for 12 years. He got that money every month. And just tagging on to the back of that being not means-tested. He served his time in the military and retired and he's getting that monthly check. So, but I thought that Social Security Disability is means-tested. Is that the wrong way to look at that?

Larry 06:19

Well, too many people confuse the two programs that are administered by social security that that pay benefits to disabled. The SSI Supplemental Security Income program is means tested. But the Social Security Disability program is not. It's means-tested in the regard that you cannot earn more than a very low amount, what they call substantial gainful activity, SGA. But you can have unlimited financial assets, and you'd still qualify for your disability benefits, if you meet the definition of disability. So that is not a means-tested program in the sense that we're using the term at NARSOL. So, people have applied for our scholarships and said I'm on Social Security. We said that doesn't do it because Social Security is not a means-tested program.

Andy 07:02

So NARSOL has created a program that I don't know as far as maybe you or I know that they don't provide public aid to those on public assistance?

Larry 07:12

I'm not understanding that question.

Andy 07:14

The program that NARSOL has. Do other organizations run programs like this that you know of?

Larry 07:19

I'm not aware of an organization in our advocacy. I'm not aware of any organization I'm a member of. Being the State Defense Lawyers Association, they have a scholarship program. They don't provide direct cash assistance. I'm not aware of the National Defense Lawyers Association. I'm an associate member of both of those. I'm just not aware of it. And it really distresses me that such a comment would be made, because it's so untrue. And the even sadder thing is I'm the primary architect of the program, the Scholarship Assistance Program.

Andy 07:51

Well see I'm sitting here thinking that you're the biggest curmudgeon that I know of and you would be like Scrooge McDuck, and you wouldn't allow anybody to pass those gates, you'd say No, nobody assisted allowed.

Larry 08:03

So, well, we did decide this year, we were going to screen the applicants more thoroughly than what I've done in the past. And I've screened them each year in the past, but this year to be consistent, everybody is going to be put through the same process. If you're on a program, you're going to have to submit current documentation of current eligibility. So, there's nothing going on here at all other than us following the rules of the NARSOL Scholarship Program. That's all.

Andy 08:29

And just one final question. Do you have to be a member of NARSOL to qualify for this?

Larry 08:34

You do. You have to have been a member for the previous year, at least. Hopefully more. But that's a factor that demonstrates your commitment to our cause and to our work.

Andy 08:44

And if I'm not mistaken, it's 20 bucks a year? Is that the lowest level to be considered a member?

Larry 08:50

That is the lowest level that a person could be a member. But if you have been a member for at least a year there's at least some continuity. We don't want people to join the organization the day before and say, gee, I'm a member.

Andy 09:04

I'm thinking back to a couple years ago where somebody was hell bent on not becoming a member and still trying to apply for the program?

Larry 09:12

That is correct. And that person ended up not getting a scholarship. You remember that quite well. That was in Cleveland.

Andy 09:20

I just thought it was funny. He's gonna spend 20 bucks to save some huge funds of money, but he just had some axe to grind. He was like, "No, I'm not gonna do it." So he spends 300 bucks to come to the conference, whatever that number would be.

Larry 09:30

He was adamant that he wasn't going to be a member of NARSOL and we were adamant that we're going to have our rules followed and at that time you could have joined that day and he was determined he wasn't going to do it. So, he forfeited his scholarship.

Andy 09:47

All right, well, then let's move on from that but that always made me chuckle. I wanted to circle back I guess we received some comments about the analysis that you did on the Colorado court of appeals Do you mind if I read one?

Larry 10:03

Sure, I'm sure I'm gonna love it.

Andy 10:05

I'm sure you are. The man is on court-ordered probation via sentence, and he never had a viable case to begin with. No different than the moron complainer in Connecticut DPS demanding procedural process he had already intelligently dismissed away by signing the state's standard waiver of civil rights. What is more interesting is the case when the person is done with their sentence but is still required ex post facto to register combined the same registrant serving a probation sentence for failure to register. Does the probation department have the prohibitive authority in that particular scenario to limit internet use?

Larry 10:45

I wasn't really clear on what he was trying to ask there. But I think he was trying to ask, can people who are off paper, off supervision - can the probation department impose anything on them? And as a general rule, I'm not aware that probation authorities monitor the internet usage of those not under any form of supervision, nor would they have the authority to do so. But having said that, Wisconsin is unique. And I think it is the Wisconsin department of corrections that actually enforces registration requirements. And if I'm right, if Wisconsin does have any internet restrictions within its registration law, I would guess that since they enforce the registry, that that would be something that they would be enforcing. But I'm not sure about that. It was a little disjointed. But he wanted to make the comment, and I thought it'd be worthwhile to bring it up. Because normally when you're not on supervision, probation people cannot tell you what to do and what not to do. They just don't have the jurisdiction to do that.

Andy 11:46

Is it Wisconsin that has the after-you-leave, -you-have-to pay-them-the-fee state?

Larry 11:51

That is correct. Wisconsin takes the posture, position that when you have been convicted of a sexual offense, you owe them a current registration form every year. And I think it's \$100 as a

registration fee, and people pay those. They sign those forms, dutifully return them and they pay those fees.

Andy 12:10

And your position on that type of subject. If it were you? I'm not like not giving the Larry legal advice. But if it were you, what would you do?

Larry 12:17

Well, my position is that since it's a civil regulatory scheme, and if you're no longer connected any way to Wisconsin, meaning you're not attending school, or employed, or in any way, connected Wisconsin, and you're registered in another state, you have removed yourself from the regulatory scheme of Wisconsin. It'd be like you taking your vehicle to another state, they would not continue to mail you a renewal form with a demand for a payment of a fee. So therefore, I would take the position, personally, that you have no jurisdiction over me. I'm no longer part of the regulatory framework of Wisconsin, and I would not pay the fee. But that's only what I would do. I'm not advocating that a soul do that. You would need to consult with your own legal team and decide what you want to do. But I would not be regulated by state and I'm not living in because it's not within their purview to do that.

Andy 13:03

Yeah, I mean, I guess if you don't live in California anymore, do you still make sure that your car follows the California emission standards, even though you live in a state that doesn't have any of that? Be similar in that regard too.

Larry 13:15

We've talked about that before and episodes recently, but when they say people leave states and go state shopping. They absolutely do, they absolutely do that. They do that for a host of reasons, not just registration laws. And one of the most prominent reasons is because of tax evasion. If they can go to a state that has no income tax, and they're in a state that has a high-income tax, would the state that has the high income tax continue to send them a bill because they had been there in the past?

Andy 13:44

Right, right,

Larry 13:45

Or better yet, would the state that they moved to say, gee, you came here, and you would have had this tax obligation. So therefore, we're gonna impose that previous state's obligation. That would be absurd, and no state would do that. The same thing applies to the registration laws. When you move from a state, you are regulated by the state you're living in, and the state that had regulated you forfeits its jurisdiction, in my opinion.

Andy 14:07

I understand. Shall we move on to some questions that were sent in? (Larry: Fantastic.) Very good. All right. This one starts off says, Hey, Andy, and Larry, I love it when they include my name, that you're not just the only one here but thank you for including my name.

Listener Question

I just found your podcast a few months ago and have become hooked. I just became a patron and hope my donation is helpful to the show. Well, thank you very much for becoming a patron. I have a question not specifically regarding PFRs but convicted felons in general. Under the Arkansas constitution, it reads in part it is the duty of any convicted felon who desires to register to vote to provide the county clerk with proof from the appropriate state or local agency or office that the felon has been discharged from probation or parole, has paid all probation or parole fees or, emphasis added, has satisfied all terms of imprisonment, and paid all applicable court costs, fines, or restitution. (Andy: That sounds a lot like Florida right there.) My question is they currently enforce the law as saying you have to be completely off paper before you can regain your voting rights. But the amendment clearly states discharged from probation and parole and paid all fees or released from prison and paid all fees. I'm on lifetime supervision for the feds. And I don't think our state legislature meant for people to have to serve two sentences when they wrote the statute, one for imprisonment and one for supervised release. Do you think I have an argument here because it could affect 1000s of people on paper in the state? Thank you again for everything. fyp. That's from Jacob.

Why are you so enamored with this question? You've been oozing about it for days. You called me up in the dead middle of night, and are like, Hey, we got to talk about this. What is it that fascinates you about this?

Larry 15:46

I'm fascinated because it's a matter that will lend itself to a textual interpretation by a court. And according to the ACLU of Arkansas' website, the Arkansas constitution, amendment 51 says precisely what he said. So I don't know if I need to repeat it, but it does say what he says. So I am thinking that this would be one of those things that would be great for a textual interpretation.

Andy 16:14

And okay, so in case I'm just to make sure that I'm tracking with you since supervised release is not in the text, a textual interpretation would be where they say that they have supervised release if they had meant that to be a barrier. Don't you think they are a bit silly here? Everyone knows that supervised release is a form of parole. Thus, that's what they intended. Their intent was to permit the restoration of the right to vote upon completion of one's sentence. That's the purpose.

Larry 16:42

Well, no, in fact, I don't think everyone knows that at all. A textualist would not say that. A textualist would interpret based solely on the words, which are clear and my reading of those words, and I agree with the with our patron. In fact, we have a clip from the late Justice Antonin Scalia who explains textual interpretation.

Andy 17:01

Alright, here's a clip from Mr. Scalia.

Interviewer (Audio Clip) 17:04

In your new book, you explain your approach to judging which is called textualism, or originalism. What exactly is that?

Justice Antonin Scalia (Audio Clip) 17:15

Originalism is sort of a subspecies of textualism. Textualism means you're governed by the text. That's the only thing that is relevant to your decision. Not whether the outcome is desirable, not whether legislative history says this or that, but the text of the statute. Originalism says that, when you consult the text, you give it the meaning it had when it was adopted, not some later modern meaning.

Interviewer (Audio Clip) 17:46

So if it was the constitution written in the 18th century, you try to find what those words meant in the 18th century?

Justice Antonin Scalia (Audio Clip) 17:52

Exactly. The best example being the death penalty. I've sat with three colleagues who thought it was unconstitutional. But it's absolutely clear that the American people never voted to proscribe the death penalty. They adopted a cruel and unusual punishments clause at the time when every state had the death penalty, and every state continued to have it. Nobody thought that the Eighth Amendment prohibited it.

Interviewer (Audio Clip) 18:16

Alright. So, you've criticized as you say some of your colleagues another approach, using a word I have to admit that I did not know existed prior to reading your book, purposivism. Did I pronounce that correctly?

Justice Antonin Scalia (Audio Clip) 18:29

You did? It's a nice long word. (Interviewer: All right. Well, I didn't make it up.) What it means is, and it's probably the most popular form of interpretation in recent times, it means consulting the purpose of the statute, and deciding the case on the basis of what will further the purpose. Now textualist consult purpose as well, but only the purpose that is apparent in the very text.

Andy 19:01

I always get flipped all over the place with this Larry that it seems to me that we, the lay people, are not smart enough to really get involved a whole lot in the legislative process beyond supporting or pushing against some kind of bill. But we cannot know all of the nuances to make something so that's narrowly tailored. So that 100 years from now, that law could still be applied as effectively as possible as from the time that was written. If you write it sort of vague, then stuff meanders all over the place. But we're not smart enough to do that. So it's like I'm on the side of the of the equation where we do want stuff to be written in the text and that's what is followed but at the same time, we're not smart enough to know all the nuances that have to be woven through that we would want it to be then interpreted.

Larry 19:49

Well, that's why we're able to amend and change and we can adjust as time progresses. But in terms of this, the purpose may very well have been at the time they adopted that amendment, I don't know the year on that, but it may have been that they intended that you complete all forms of your sentence. But they didn't say that. They said, probation or parole. Supervised release, just to give a little history supervised release is a replacement for the federal parole system. We had the sentencing reform act of

1984. And they abolished parole and anyone who was under the old sentencing structure that would have had eligibility for parole continued to have that eligibility. But those people have long since been released on parole. At that time, parole was abolished, they imposed a second sentence on people called supervised release. Since it's been around since 1984, I would say two things. Either the Arkansas legislature did not intend to include supervised release in there because maybe they adopted it after 1984. But even if they didn't adopt that amendment after 1984, if they adopted it before 1984, they've had decades to change it. To put the words in that includes supervised release. So I would say that they did not intend to prohibit people who were on supervised release from voting. If they had intended that, they would have said that.

Andy 21:14

And so what should he do?

Larry 21:18

Well, he should consult with an attorney in Arkansas and determine if there's any appellate case law on the point, meaning if an appellate level court has interpreted what this means, because I did not do that research. But if there's not any case law, he might want to consider presenting himself to a county clerk for registration and complete the form truthfully. Don't lie on the registration form. When they ask you have you ever been convicted of a felony? Say yes. Have you completed all your obligations? Depending on whatever the questioner says, answer truthfully. And they will likely deny the registration because he says that's the way they're enforcing it. At that point, there's a justiciable controversy and he can file a lawsuit against the county clerk who refuses to register him. Remember like the one that filed the lawsuit who wouldn't issue the marriage license. He can do the same thing. (Andy: I recall that. Yep.) Yes. And he should be prepared to spend some money because I'm doubting any civil rights organizations is going to be willing to bankroll the challenge.

Andy 22:12

Why do you say that though? Why aren't they gonna be willing to bankroll?

Larry 22:14

Well, we're fighting- when I say we, the people who fight for restorational rights, we're fighting to try to get people who paid their debt in full their voting rights back. And it's difficult to imagine that they would have the financial resources to try to widen the public debate to include those who are still serving their sentence. And clearly supervised release is a sentence. So I just doubt it. That doesn't mean it's not worth trying. But I would be very surprised if a civil rights organization... the first place he's gonna go is the ACLU, and the ACLU is not likely gonna take it but it doesn't hurt to try. If you don't contact them, you don't know what their position will be. But I doubt it.

Andy 22:50

Right. We're not a very popular group, are we?

Larry 22:53

It would probably not lend itself to a massive influx of new donations to the ACLU, I wouldn't think.

Andy 23:01

All right, then. How about question number two? Look, Larry my name got included again. It says Hello, Andy and Larry. Actually says hello, Larry and Andy, I'm second this time.

Listener Question

I'm a Patreon supporter and have a PFR son. He is going through a custody battle in New Mexico and has to go to mediation. They are in the process of choosing a mediator. Does Larry know if any of these mediators are PFR friendly or adverse? We want to make the right choice to give him a fair shot in the system. Does New Mexico lean one way or the other in custody slash visitation? His ex is a good attentive mom with her stuff together. Does my son stand a fair shot in Albuquerque? I understand you do not provide legal advice. But if you have any insights, it would be appreciated.

Thank you very much for the Patreon. This is a very, very generous Patreon supporter that's been around for a long time as well.

Larry 23:52

Well, I would say that he does have a very good chance in Albuquerque. But there are too many unknown facts here. We're gonna get the unknowns and stuff shortly, aren't we? But there's too much we don't know about this. It would be very facts specific in terms of custody. If it was an inside the home offense, particularly if it was a child, I would say that custody is not likely to happen. If it involved a minor, I mean, that's gonna, that's gonna be problematic. But New Mexico starts with the presumption that both parents are fit. And being on the registry does not make you unfit. There are some states where there's a presumption of being on the registry in fact, they put that in the statute that that is a presumption of unfitness. That is not in New Mexico law. That does not change your presumption of being a fit parent. So the process would require proof that he not be fit to be a parent. And then they do everything they can to provide some level of interaction. It may be a supervised visits, but they're not going to cut out a father out of a child's life here, not very likely. But I'm going to try to set up a meeting with qualified legal representations on this one, to see if we can delve a little bit further and collect some of those relevant facts. But as a general rule, no big being on the registry is not going to cause you to lose rights to your kids, not going to happen.

Andy 25:23

Ashley, your attorney friend over that way has said that she believes that being a parent is something close to a constitutional right, like but that's not an enumerated right that I've seen, but she's pretty adamant that that is something that you should be able to stand on firm ground and say that look, I have a right to have access to my kids.

Larry 25:40

I do believe that there's something there that, like I say, but we have it in our statutes. The presumption is for shared custody. The burden is on the parent that wants to custody not to be equal or shared to show and she's going to have to show something. Being on the registry by itself won't do it. But if he was on the registry for being something he did 20 years ago when he was 19. And he had a girlfriend that was 15 or 16 and it was all consensual. That would not disqualify him now he's 40 years old and got a kid. It just wouldn't.

Andy 26:09

Okay, anything else you want to cover on this one before we would move on?

Larry 26:14

I think I've done the best I can with the information I have.

Andy 26:18

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Alright, question number three, via email.

Listener Question

Hello, Larry and Andy, you too sometimes confused the podcast listeners because of your flip flops on answers. You say that there is a process to transfer probation or parole from one state to another, then you turn around and you make it seem so complicated. Is this just a rich lawyers' scheme? Or is it complicated? I'm in Florida and would like my nephew to come and live with me when he is paroled next year. Is it possible for that to happen or not? First of all, Larry, why would somebody want to move their PFR nephew to Florida?

Larry 27:39

They probably don't know that Florida, if you've never encountered anything, you wouldn't understand how bad it would be in Florida and you wouldn't think anything of it. You would think that the registry is probably similar, and identical maybe in all the states. So this person has no clue. That's why they would want and I don't think they're going to pick up and move to another state necessarily. Maybe they can, maybe they can't.

Andy 28:01

Alright, so is it possible for this to happen or not for them to move?

Larry 28:05

Absolutely. And we can't say for sure. But we answer some variation of this question regularly. And I enjoy doing it because it's confusing. And people are in search of information they have a hard time finding. But for purposes of the answer, we're assuming that the term parole is actually meaning what Illinois refers to as mandatory supervised release, we're going to make that assumption. And your nephew can seek to have that mandatory supervised release transferred to Florida or any other states through a formal process that exists for transferring state-imposed probation or parole. The process is accomplished through the interstate compact for adult offender supervision. And those of you online you can go to interstatecompact.org and you can find all the stuff about the interstate compact rules as well as advisory opinions.

Andy 28:57

So, I'm assuming that the nephew would then go into the ICAOS office in their state capitol area and go I demand to be moved to a new state. Is that how the how the nephew would go about doing it?

Larry 29:09

No, he would not do that. The applications seeking transfers are submitted only by supervising authorities. Since he's in custody, he would need to work with his reentry people if they have such people in Illinois, but with some kind of case management and let him know that he wants to do his MSR, as it's called, in Florida. Do not contact the ICAOS offices directly regarding possible transfer because they cannot assist you. But it might be worthwhile to note for the listeners who are not in particular in the state of Illinois that that you may have to pay a fee for the privilege of applying. And I scan that list from time to time and I've seen outgoing application fees as high as \$250. So it means that it's expensive to potentially to request a transfer, and fortunately for this person, Illinois does not impose an application for those transferring parole. And that's the way it's worded. But I'm assuming that they also mean MSR the mandatory supervised release, they don't they don't charge a fee for him to apply.

Andy 30:12

Let me ask you this question. If you try to transfer, and I don't know if this person in Illinois is going to have this condition, or Florida would then apply if there is living restrictions, if you apply to transfer and the address is unapproved, because of 1000 foot, whatever kind of restrictions, then you get a new address, do you have to apply a second time like, hitting you for another \$250?

Larry 30:35

That is correct. You have to apply a second time.

Andy 30:38

Oh, God. oh my God, you better do your homework upfront to make sure that you're going to have as many ducks in a row upfront. I would assume that you'd have to pay the \$250 if you're going to try to transfer to a different state. That part made sense. But I wouldn't have expected them to go, nope, you failed this time. Try again and pay \$250 again. That's crazy.

Larry 30:56

I have heard it both ways. Now, I wouldn't say it's a given you have to pay it. I have heard they've allowed people to submit a second address and a third address within the same application. But I have also heard that they have said that application's denied, you need to submit a whole new packet. And see the state that's imposing it is the outgoing state. And they have to assemble the packet all over again. Now, presumably they've assembled a lot of the packet previously, they would be submitting a new address. But I've heard it both ways. I've heard it both ways that they've charged them to apply again, as if it was brand new and they've also allowed a second address to be submitted. So, I can't tell you for sure, but it's a disaster.

Andy 31:37

One way or the other, oh my God, that's rubbish, though. So that then what else makes the process so uncertain? Wouldn't Illinois

just want to get rid of them and have him become someone else's problem?

Larry 31:48

Well, you would think so. But it's not so simple. Those seeking transfer for their supervision should keep in mind that very few states desire to supervise another states PFRs for fear of potential liability should the person commit an offense. And the result is that interstate transfers are often denied for relatively minor reasons. This means the person seeking the transfer, the nephew, should have someone on the outside do as much as homework as possible before applying. You really need to know if there's, if the proposed residence meets the requirements of the receiving state, for any offender under similar supervision. So you would try to find out in this case of Florida, and you try to localize it to wherever this person lives in Florida and find out how they restrict people. It's difficult. Now, when she goes to her bridge club meetings, I doubt she's gonna feel like saying, hey, got a nephew, making parole from Illinois for a sexual offense. Do you happen to know anything about what kind of restrictions...? So, it's really a complicated thing to try to figure out. But we need to try to emphasize, find out if the house is too close to school or park or anything that might be potentially a reason for them to deny it because the application will be denied on very flimsy reasons. And so, researching the registration laws is not enough because the supervising authorities can often and do impose restrictions and prohibitions that are greater than those who are simply just required to register.

Andy 33:19

Just for clarification, you keep talking about supervising this and that. This doesn't apply to people that merely, and I use that in like a lot of quotes, merely have to register, someone that's done with all their probation, parole, all that other stuff. They merely do something of an Annual Registration. This doesn't apply to those people, but only those on parole slash probation kind of situations.

Larry 33:41

That's correct. Now, if you're going to move to another state, and you have a duty to register, you're going to want to be as familiar as you can with what they impose in the way of restrictions within their registration law. But you don't have to worry about supervising authorities, you have to worry about two things: your state law, and you have to look at whether that state has local restrictions. Some states prohibit local restrictions either by judicial finding that it's unconstitutional, that they're preempted by the state law, or in the case of New Mexico by state statute that our group helped get passed and signed into law that says that they cannot impose any restrictions around the state statute. And guess what? They're not in the state statute. So you can live anywhere you want to in Mexico if you're simply required to register. But if your supervised as a PFR, they have the 1000 foot restriction that's imposed by probation & parole..

Andy 34:29

Okay. So then got it. And here we go down this path. Which state controls registration?

Larry 34:35

Again, kind of what we talked about previously, with the automobile. The person who takes their automobile to another

state, the registration is controlled by that state. Well, the same thing happens with the vessel of yourself. When you take yourself out of state, the state that you've taken yourself to, they control your registration. You need to let go of the fact that you had a 10 year. This is the most common thing I get. "I was standing before my Judge, and she said, I would be required to register 10 years. And then I moved to New Mexico, I moved to Florida, and its lifetime." That is correct, because that judge was merely apprising you of the law in the state where you were convicted. But the state of Illinois will no longer control that registration if he moves to Florida. And we must warn you that Florida has some very tough registration requirements. In fact, Florida requires registration for life and their removal process is extremely limited. And it's crucial that you understand that registration requirements are completely separate from the supervision requirements.

Andy 35:41

And just to tack on top of that one, registration doesn't end when you're dead in Florida. They have like 80,000 people last I remember, but only like 50,000 of them are alive.

Larry 35:52

Well, but they do lift the reporting obligations. You don't have to report in any longer.

Andy 35:59

Okay, so once you're dead, you can be sure that you're not going to get in trouble for not going to the registration office annually. Yeah, that's great to hear. Um, but I've heard that both states can impose conditions of supervision. This always, always, always confuses me Larry, which one controls the supervision requirements?

Larry 36:17

Well, the primary control rests with the convicting state. They determine the duration of supervision. For example, if they give you 10 years' probation, you've got 10 years supervision when you go to the new state. We talked about that last week, a person said in Arizona, they wanted to find a state that was more lenient so that they could get off lifetime, they had two consecutive lifetime, you remember that? (Andy: I do. I do.) Yeah, well, that doesn't work. So the primary control rests with the state that convicted you. They determine the duration of the supervision as well as any fines and they can impose whatever special conditions they deem appropriate, which follow you. But then the interstate compact requires that the receiving state honor those conditions. And they give the state that's agreed to supervise you the prerogative to add special conditions as well. And often they do add additional special conditions.

Andy 37:09

And you've said that the receiving state might impose conditions as well, how does that work?

Larry 37:13

What they would do is when you get there, they would look at your offense, and they would say, well, you're a PFR. And we give PFRs curfews in the state. And you say, well, the judge didn't say anything about a curfew, and they would say, well, that's too bad. All PFRs start with a six o'clock curfew here. Therefore, that has been incorporated into condition of your supervision. Sign here,

please. And you can say, No, sir, I will not sign here. And they will say then you don't get to be supervised here. But they can, they would add those conditions. Now they have to be consistent with what they would impose on an offender convicted there of a similar offense. They can't just start stacking on things to try to make you not want to be there. But if those conditions reasonably resemble what they would put on had that person been convicted in that state, guess what? Those are legitimate conditions, special conditions they are allowed to tack on and you are obligated to follow them. Or you can say just give me reporting instructions, I'd like to go back to the state that convicted me and they'd be happy to do that.

Andy 38:17

Yeah, that was it. So that's two questions. One is if you move to the new state, and you just decide that you don't want to live there anymore, do you have to ICAOS back?

Larry 38:29

No, you don't. You always have the right to go back to the state that convicted you. So they would just notify the state that you wish to return. And that state would have to give you what's called reporting instructions. Now that state does not have to let you live anywhere you want to because they may have restrictions. You may have been when you were convicted in that state, the residence you might want to go back to moms and moms may be too close to something. So they don't have to let you go back to moms. But they do have to let you return to that state.

Andy 38:56

But you may end up living under a bridge where all the other PFRs are living that can't find places to stay too.

Larry 39:03

You very well could end up in a very difficult position. Because you have the right to go back. But when you tell them, when you report in, the first thing they're gonna ask you is what's your address, and you give it them. They say, Nope, can't live there. Then you say, Well, what about...? Nope can't live there. And you say, well, I don't have anywhere else to go. And they say, well, you know, tell us when you find a place, but you can't go to either of those places. Where are you going to stay tonight? Well, I'm going to go to the bridge. They'll say well make sure the bridge and they'll, I mean, they will actually force you to disclose where you gonna... You're under supervision. They have right to know where you are. And what they would likely do is they'd strap a GPS monitor on you at that point when you have nowhere to go. And they would tell you that, that since we don't have any way of tracking you, we'll track you through this. And then you would say Guess what, I don't have any way to charge it. They'll say well guess what? You can come in every day. You can charge it here.

Andy 39:55

Yeah. So and you may not have transportation. So now you're going to live within foot distance of the registration office, or the sheriff's office. Which that sounds like that would be a joy, because you're going to live within some five or something miles of that place. This is garbage. Um, one other question I have before we jump out of this is ICAOS, is that specific for PFRs? Or was that just like a generic system for everybody that's on supervision.

Larry 40:23

It's for everyone on state-imposed supervision. It's a totally different process that I don't understand for federal. The Federal, they don't have all the hoops to jump through because the federal it's all one jurisdiction, so they can move you, transfer you around a lot more without all the bureaucracy. They can do it much simpler. But any type of supervision, that's what's allowed to be transferred, even misdemeanor supervision can be transferred under the interstate compact.

Andy 40:50

How does that work on the federal side? I've realized we're moving away from this whole ICAOS discussion. But if you are, if you're convicted in a state and you move to a different state, but you're under the federal system, who's then the one the one that does your registration stuff, and what rules do you follow of registration if you're convicted at federal level? Because there's no federal registry? Right, Larry?

Larry 41:09

That's a great question. You follow the state rules that you're living or working in? Most of the time, you're going to be living and work in the same state. But there are states where people do both, but you would comply with the registration laws in the states where you are working, and living. And the feds would tell you to get down to the registration office. So you get convicted in Florida, and you transfer your federal supervision to Idaho. The Idaho probation service is going to tell you to get within compliance of the registry in Idaho. They're going to tell you go register right away.

Andy 41:44

What a mess. God, that's complicated. Yeah, I'm glad I don't have to deal with all of that either. Because that would start to get complicated. Anything else here before we move on?

Larry 41:55

I think I've covered that as best I can, unless you have another question.

Andy 41:59

I do not. There's some people in chat that are talking about AWA being adopted and how long they're going to register for but none of that's related to what we're talking about. Just Florida is just terrible with their lifetime registration, even for the most benign of crimes. But that's, that's all that's going on. Nothing else in chat to go over. But I think we are at our new segment that we're going to do. And it is Who is That Speaker? Would you be so very kind to introduce what we're going to do with this?

Larry 42:29

We're going to try to have a little game show to put speakers in that you should recognize. We're going to start easy, I was going to start really hard with someone that went back to the 70s. And I thought, gee, we got very few people that were paying attention to current events in the 70s. So we're going to go back not quite as far. But we've got a voice of a person who recently passed away. The quote is famous to see if anybody can recognize who this voice is. And you can explain how they get the word to us if they figure out who the voice is.

Andy 43:05

All right, well, I'll tell you that after we have the clip, just to give you some time to cogitate over what this is. So here's the clip.

Who is That Speaker? 43:16

Reports that say there's, that something hasn't happened are always interesting to me. Because, as we know, there are known knowns, there are things we know, we know. We also know there are known unknowns. That is to say, we know there are some things we do not know. But there are also unknown unknowns, the ones we don't know, we don't know.

Andy 43:40

So here's the deal. So if you are in chat right now, first of all, I'm going to delete your message if you shout it out. And but the people that would be patrons listening to the live stream would have a head start on sending in an answer. But so I think I can do this. If you do a hashtag on Twitter and say, #WhoisthatSpeaker? Then I think I will get it. At least I could go look for it. But definitely address it to Registry Matters on Twitter, or you can email it to registrymatterscast@gmail.com I think that's how it'll work. And then you'll just be able to just have some your 15 seconds of fame next week when we announce who got the answer correct. Sound fair, Larry?

Larry 44:22

Sounds fair. But you know, that speaker he missed, there's a there's a fourth. The fourth thing, there's a fourth option that he didn't he didn't even mention.

Andy 44:33

What's the fourth option?

Larry 44:35

Well, he went through, well, I don't need to repeat it. But there are unknown knowns. And that's to say that there are things that are known by certain folks, and they don't share that knowledge with the rest of us. So that would be that. I mean, that would be another option that he didn't discuss.

Andy 44:56

That would be area 51.

Larry 45:00

That would be an example of an unknown known. It is known, but it's not shared with the population.

Andy 45:06

All right, so we have known knowns, known unknowns, unknown knowns, and unknown unknowns?

Larry 45:17

No there. There are unknown knowns. So that information is known. So but it's unknown to almost everyone except for a select few. But the information is known, so they're unknown knowns?

Andy 45:34

I gotcha. Okay. I believe, Larry, that we have covered all of our content for the night. We are kind of short on time, as far as, we're not long on time. long, short. Anyway, the podcast seems to

be a little bit short tonight, which I'm okay with, or is there anything else that you want to cover before we head on out of here?

Larry 45:52

Well, we had we had some new patrons, that you already shouted out. Did I give a shout out to the people who are subscribing to our written transcripts? I don't think I did.

Andy 46:05

You have not done that yet. So why don't you these. These are snail mail subscribers.

Larry 46:10

We have Timothy in Kansas. And we have Chuck in Maryland. It's actually Charles but he said since he's aware that we have a Charles already, we can call him Chuck. And we have those two. And we are going to get back to Chuck's question again, hopefully next week about hearsay evidence. We're going to try to have Ashley come in and talk about more of the exceptions to hearsay evidence if she can make it in next weekend. And you are on vacation. So I intended this to be a shorter version of Registry Matters. But is there anything juicy in live stream that we could respond to?

Andy 46:50

I do not. People are asking about who's on first at the moment. Are you familiar with that? That's about your youth timeframe.

Larry 46:58

That was well after I was in adulthood. I'd already been Secretary of War but by the time that came out.

Andy 47:04

Yes. So who's on first is a famous skit by Abbott and Costello, which is unbelievably funny. If you absolutely don't know who that is, but you should definitely go check it out. Larry without anything else, then you can find all the show notes and other information and links where you find the podcast at registrymatters.co. You can leave voicemail and we will have another one voicemail message coming up next week from I think it is Brian in New York. That's 747-227-4477. registrymatterscast@gmail.com. Again, send in that Who's that Speaker?, use that hashtag on Twitter or email to us at registrymatterscast@gmail.com and of course, support us on Patreon at patreon.com/registrymatters. Follow us on Twitter, and YouTube and all that stuff. And without anything else, Larry, I wish you a very happy, happy, happy weekend. And I will talk to you soon.

Larry 48:01

Thanks for having me.

Andy 48:04

Good. Bye-bye.

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Registry Matters Podcast is a production of FYP Education.



Registry Matters Podcast
Episode 185
Recorded 7-17-21

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