



Registry Matters Podcast

Episode 327

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[00:00] Announcer: This episode of Registry Matters is brought to you by our patrons. Thank you for your continued loyalty and support.

[00:09] Andy: Recording live from FYP Studios East and West and more West transmitting across the Internet, this is episode 327 of Registry Matters. Happy New Year, everybody. It's the first show of 2025. Larry, how are you tonight?

[00:24] Larry: Well, I am recovering from some creeping crud, so hope I can.

[00:29] Andy: You got the corona virus again, didn't you?

[00:32] Larry: I don't know. I didn't take any tests this time. I know it was worse than last year with COVID. So, it was fun.

[00:40] Andy: Do you recall a particular individual that said if we would stop testing, then we the numbers for the people with COVID would go down?

[00:46] Larry: Yes. And it was a true statement.

[00:49] Andy: It is absolutely a true statement. Well, how would we know if our tire is low on air if we never check it? I mean, you could just let it go.

[01:02] Larry: That's right. We used to do that before we had the, the gauges that are built in the tires and people would run very low. And there was a president that was in office that was criticized when he told people to check their tire pressure.

[01:12] Andy: I recall that too. That was also very fun. He wore tan suits, and that was also very, highly criticized.

[01:19] Larry: Yep. So

[01:21] Andy: Well, I will do it. I will do it. I will do it. Where's that button? There it is. Okay. So I haven't said this in a long time, but make sure you press like and subscribe and ring the bell notification and all that happy horse stuff on, on YouTube and leave a 5 star review. Of course, if why would anybody hey, make sure you leave like a one-star review. Nobody would ever say that. But so, download it on a podcast app, Patreon support. Yeah. Go on. What are we doing tonight?

[01:51] Larry: tonight? Well, it's me, mister gloom and doom. But for good news, Chance is back with a California corner this week. And I think he's gonna discuss what we didn't get to last week for audio problems on our last

episode. Removal from registration. That there are so few taking advantage of this wonderful option. And we're gonna be looking at a case from the Supreme Court of Iowa. And we have a question from one of our loyal patrons in North Carolina. And then you mentioned some gobbledygook that we might go off topic on, but, hopefully, we don't do that.

[02:34] Andy: Yeah. I don't know that we're gonna do that one. Let's kick right over to this question from Mike in North Carolina. It goes, first of all, happy New Year. Thank you, sir. Happy New Year to you too. He says, I am about to fill out and appear for my mandatory in person appearance here in North Carolina. I looked up the online registration requirements, and I have a question for you or Larry. Trust me, it's not for me. In section b, it talks about commercial social networking. I've read it multiple times. That's him reading it, not me. Does it mean sites like Registry Matters? Not sure if I even fall into the high-risk offender portion in section c-1. I'm going to report in person on Monday, hoping someone can take a look at it.

[03:21] Larry: Well, someone did take a look at it. Who did it? I followed his link, and I got the statue, and I plopped it in here. And we have a licensed attorney of the state of California, so that would qualify for North Carolina. Don't you think? We could [Andy: I think so.]

[03:38] Chance: If I'm gonna commit malpractice it does. But go ahead. Go ahead. So, Take a shot.

[03:45] Larry: So we have so looking at the statute that he provided us and, just looking at the definition contained in section B. And it's very crucial that section B says that meets all of the following requirements to be covered. And since I'm such a horrible reading reader, if someone would like to read 1, 2, 3, and 4, but I'm having my doubts that registry matters would qualify for those for all of them combined because it can't be any one of them. It's all of them.

[04:23] Andy: Alright. Well, I will read them. It says, it is unlawful for a high risk PFR to do any of the following online. So, 1, to communicate with a person that the offender believes is under the age of 16. Number 2, to contact a person that the PFR believes is under the age of 16. Isn't that the same thing? It believes to communicate to contact. Isn't communicate the same as contact? Yeah. You're in section a, though. We were Oh. Yeah. [Chance: You wanna skip down to b there.] You didn't okay. Well, you said 1234. Alright. So here sorry. Sorry. Back up. Section b then says, we're gonna come up with the definition of social networking websites. So here's 1. Is operated by a person who derives revenue from membership fees, advertising, or

other sources related to the operation of the website. Now, you told me in pre-show that this would be a true, but we don't run it here locally. It's run through a third-party site. So does that make this not count for us? [Larry: Well, I think it would be one of the 4 possibly met, but then we've got more to go here because it has to be all of them.] Okay. And then number 2 is repealed by session laws 2019-245 section 3 a, effective December 1, 2019, and applicable to offenses committed on or after that date. Number 3, allows users to create personal web pages or profiles that contain the user's name or nickname, photographs of the user, or other personal information. I don't think that applies. Like, you could leave comments on the Registry Matters website, but, like, that's not a way for you to, like, be in contact with each other. And then you said number 4, so provides users or visitors a mechanism to communicate with others, such as a message board, chat room, or instant messenger. And that one's a hard no.

[06:15] Larry: We don't do number 4.

[06:18] Andy: I mean, again, if you left a comment, someone could reply to your comment. But, like, that's not that's not communicating with. I wouldn't really call it that.

[06:29] Chance: So Yeah. Though, this is a very grey all these things well, with the exception of number 1, all these things are pretty grey.

[06:39] Larry: And if in my opinion, this is only an opinion of an individual, but in my opinion, these 4 are not met. All 4 of them have to be met. Not really, really clear on number 2. But, I don't think all 4 of these are met in terms of this. But, when you say something's in a gray area, then it gets sent to a rule of lenity. Right, Chance? When you when you have something that where there's a lack of clarity, any doubt and ambiguity is supposed to be resolved in favor of the runner, the accused. And so, therefore, this seems very innocuous. I would be very surprised if he had any problems with it. But one never knows.

[07:31] Chance: Yeah. One question that arises, and you're looking at 3 and 4 is whether you know, does this include Discord? Use of Discord?

[07:41] Andy: I mean, that that would be significantly closer to meeting these things. People don't create profiles. They sure as heck communicate with each other.

[07:52] Chance: Yeah. That's what I'm talking, but that's why I'm saying it's kind of gray. This is what makes it gray for me because I don't know whether or not Discord would be included in all this. [Andy: Certainly.]

[08:03] Andy: And then I asked you this, also, and someone just in chat said, I thought the Supreme Court said it was unconstitutional to block us from social media.

[08:13] Larry: Well, they did say that, in in Packingham. That was a total ban. But they didn't say that there couldn't be reasonable restrictions that are narrowly tailored and targeted. The problem for the lawmakers, and I know that thousands of them listen across the country, you can do almost anything if you narrowly tailor it. If you'll put your broad brush into the dumpster and you will figure out a small subset of the total PFR population, there's almost nothing that you couldn't do. But you just can't help yourself because you listen to the victim's advocates and to the law enforcement apparatus too much and you don't think about how to narrowly tailor. I can think of ways you could narrowly tailor and get away with almost everything that you'd wanna do, but that doesn't give the satisfaction of being able to pontificate that you're being tough on all the registered offenders. That just doesn't sound as well when we we've got it's kinda like our 3 strikes law When we had a, Gary Johnson as governor of the 1990s, he insisted that we should have a 3 strikes law, and we passed one to satisfy Governor Johnson. Not a soul has ever been in 30 years given a life sentence under our three strikes law because it's so narrowly tailored that you could I mean, Nolan Ryan could not have hit that strike zone when he was in his heyday of being a great pitcher. I mean, it is impossible. But you can do a lot of stuff if you narrowly tailor it.

[09:45] Chance: If you look at it, I think they've attempted to do that. I mean, just look at the title. Ban online conduct by high-risk sex offenders that endangers children. They're banning conduct. You know, of course, this gets into social media, but, you know, the idea is that they're trying to, you know, to nail it down to a very, very small and high-risk segment's conduct. So, this, you know, it just it just goes into the mix in in in making this gray.

[10:17] Larry: But if you had been if you look at, subsection a in the 1234 there, again, you would need it to have narrowly tailored it even below what they've got it tailored here because you might have a biological child or someone you have legal custody of and you're telling them they can't communicate with any person. It doesn't say. And, if you want to do this correctly, you will say except for and you would put those exceptions in there of biological children, children that you have legal custody of and so forth and so on. But they didn't do that. [Chance: Right.] The contact person is at least to be at 60. [Chance: We're talking about different shades of gray.]

[11:01] Chance: You know, do you wanna be the do you wanna be the person who has to litigate that is the

question. [Andy: Mike, we need you to be our crash test dummy on this one.]

[11:12] Larry: Yeah. I think [Andy: We'll see how he responds to that.] I think he's not excited about doing that. That's why that's why he put this in there. Probably.

[11:21] Andy: But, he said no.

[11:24] Larry: But I don't think he's got anything to worry about. But if you look at the punishment down in section e, a violation of this is a class h felony. Now it sounds like a lower level felony in North Carolina because they probably go a through h, maybe for even further. But still, it's a felony offense, and that could possibly subject you to a lot of incarceration time. If they if they can use it as a habitual enhancement and all these kind of things, it could be a very uncomfortable situation.

[11:53] Andy: Not to mention just at least even going to the county jail to be processed before you go off and do the rest of your time. Even if it's even if it's 3 months, it's still enough of a pain in the butt. So, all right. Did we cover everything?

[12:11] Larry: It's best I know how to do. And, Chance, you agree that it's a bit iffy, but I I don't think he's got any potential threat coming his way. But you never know.

[12:26] Chance: Yeah. No. I you know, I'm it's a bit iffy and gray to me, and I'm not sure I'd wanna be the crash dummy on that. But, you know, choices, choices.

[12:37] Andy: Well, I mean, he's here on Discord too. He's I think the conversation is a is about is he able to, like, download the podcast from the website to listen to it? Couldn't that immediately collide with First Amendment of being able to receive information with the information to redress grievances with your government, etcetera, etcetera?

[13:00] Larry: It certainly could.. But, again, does he wanna be facing a \$50,000 bond for a PFR if they try to make an issue of this?

[13:15] Andy: I think he's independently wealthy, and I don't think money's an issue. And I'm just kidding. I know he's gonna, like, rage type at me no again. Alright. Well, then, shall we talk about Iowa? [Larry: I love Iowa. So, let's talk about Iowa. What you got in mind?] Alright. Well, there's a case from the Iowa Supreme Court, and it's John Feller versus the whole entire state, which includes about, what, 12 people? The state of Iowa. And it's a win for us. So, what's this case about?

Larry: How the heck would I know? That's the reason why we have AI.

[13:54] Chance: Yeah. That's okay, Larry. Let me help you out like kinda like manually with a brief discovery of the case, non AI. John Feller, required sex offender registrant, sought to modify his lifetime registration requirement. The Iowa District Court in, I think it's called well, I don't know. Anybody know how to pronounce that? [Larry: Dubuque.] I think it is Dubuque. Dubuque County denied his application, citing various reasons including his decision to testify by affidavit, his courtroom demeanor, and the letters he sent to his daughter. The Iowa Court of Appeals affirmed this denial. However, the Iowa Supreme Court found that the district court abused its discretion by considering improper factors and not providing substantial evidence that Feller remains a threat to public safety. The Supreme Court noted that Feller had completed sex offender treatment, lived in the community without issue for almost a decade, and was evaluated as low risk to reoffend. Consequently, the Supreme Court vacated the decision of the Court of Appeals, reversed the district court's judgment, and remanded the case for an order granting Feller's application to end his lifetime registration. I mean, how clean is that? It's beautiful.

[15:09] Larry: Indeed. See, you did all this for me, so I can go home now. Right?

[15:16] Andy: Oh, you can totally go home. Well, according to Come on. According to the court, but for the state's unusual procedural approach to Feller's underlying charges, he would be off of the PFR list by now. Instead, he's subject to lifetime registration unless a district court grants his application to modify his registration requirement. Did that happen?

[15:34] Larry: Well, it did as Chance, provide the summary as the district court denied his application provided reasons that we've already covered, ranging from his decision to testify of affidavit rather than personally and his courtroom demeanor to the letters he sent his daughter with permission from the daughter's mother and his parole officer. The court of appeals affirmed the district court and the Supreme Court, fortunately for him, granted review.

[16:04] Andy: In the opinion, it states, we now reverse the district court's ruling and remand for the entry of an order granting the appellant's application to end his lifetime registration. The appellant's evaluations demonstrate that he is at a low risk to reoffend, he has successfully completed PFR treatment, and he has lived in the community without issue for almost a decade since his release from prison. The district court abused its discretion by considering improper factors, and substantial evidence

was not introduced that the appellant remains a threat to public safety. You've pontificated for years that abuse of discretion is a difficult hurdle to overcome, but he did it.

[16:46] Larry: It does occur occasionally, but while it's a tough standard to overcome, would you agree me with me on that Chance? When you are Well going abuses of discretion, that is almost an impossible standard to meet.

[16:59] Chance: Entire I of course, I would agree with you. I mean, I've, you know, I've only achieved it once. It's been recently in California, but it's incredibly rare.

[17:12] Andy: And I'll tell you, speaking of tough standards, did you know that the Iowa state bird, the American Goldfinch, is said to symbolize resilience? It's almost as if the Fellers case embodies that spirit, don't you think?

[17:24] Larry: Interesting connection. But, yes, it's a unique situation where the Supreme Court saw fit to intervene. They did have to grant review, and they not only granted review, they slapped down both courts. [Chance: That's pretty rare.]

[17:37] Andy: In April 2011, the state charged Feller by trial information with lascivious acts with a child and third-degree sexual abuse for his conduct between 2007 and 2011. According to the minutes of testimony, Feller admitted to doing a number of naughty things to JB we can't read here. When he first started touching JB, Feller described it as their secret, and he told her that he had to keep it away from the family to stay together. He told police he did not touch LF because she was his biological daughter. Things went south for Feller. And then what happened next?

[18:12] Larry: A memorandum of plea negotiation shows the state agreed to dismiss the sexual abuse charge and substitute a second count of lascivious acts with a child. To the April 2011 trial information. I don't know if we wanna get into the weeds of what a trial information is. Boy, it's a charging instrument. It could be indictment, complaint. I don't know how they do it in California. But here, when an information is filed, it's usually without any cross examination. It's the prosecution saying, here's the probable cause. We're saying that, and we're filing this information. But, anyway, while Feller was awaiting trial, his attorney sent him a letter detailing how some temporary help in the county attorney's office opened a new case file instead of amending the old case file. Because remember, they were they were, substituting the lascivious acts. According to Feller's attorney, the state was going to amend the old case and dismiss the new one, but it never did. Since the state never altered its filings, and Feller pleaded guilty in 2 separate case numbers to lascivious acts

with a child for what he did to JB. The district court sentenced Feller to concurrent sentences of 5 years' incarceration on each count and 10 year special sentence committing him to the custody of the Department of Corrections. It also ordered Feller to register his PFR as required by Iowa law chapter 692 a.

[19:39] Andy: Upon entering prison in 2012, Feller submitted an application for determination to the Iowa Department of Public Safety to establish his registration requirements. The DPS informed Feller that he was required to register for a period of 10 years. Feller discharged his term of incarceration in 2014 and again filed an application for his SOR determination in 2016. This time, the DPS informed Feller that he was required to register, for how long, for the rest of his life. They wrote, you are required to register due to your convictions in October 24th 2011. I'll try this again. Your convictions in October 24, 2011 for a lascivious acts with a child in violation of Iowa code section case numbers and lascivious anyway, it goes on and on and on. If committed against a person under such and such ages, according to this and that, the conviction of a second or subsequent PFR type offense to register for life. This sounds to me like a plot by the prosecution, Larry.

[20:49] Larry: It very well could have been.

[20:53] Andy: But he filed another petition?

[20:56] Larry: Yes. He did. In December 2021, Feller applied to modify his SOR requirements under Iowa code 692 a.128. The district court held a hearing on July 13, 2022, that included testimony from J. B. And Kayla opposing Fellers' application primarily out of concern for LF, who was 15 years old at the time. They testified that Feller had been sending LF letters or cards almost monthly with permission from Kayla and his parole officer. The district court admitted several of these letters as exhibits. According to JB, the letters that were admitted "had the most manipulative tactics in them, that I wanted to show."

[21:49] Andy: Now, the contents of his cards, they don't really sound manipulative to me, but for example, one letter reads read as follows. Hope you're doing good and have not heard from you in a long time. Be nice to get a card. I hope school went well. Be nice to know how you are doing. Have a fun 4th July. I love you with all my heart and always will, and I hope your summer vacation is good. Once again, it would be nice to hear from you. Grandma Feller misses you too. Love always, dad. Please send a card. That sounds like a father who misses his daughter's contact while he's in prison. How did the hearing go? Well,

[22:30] Larry: Feller did not testify, but as mentioned, he submitted an affidavit noting that he had completed PFR

treatment while incarcerated and, again, while on parole. He stated that he has had no criminal charges in the 8 years since his release, including no sex offender registration violations, and only learned that he would have to register for life when he was discharged when he completely discharged his sentence in 2014. Further, Feller declared that he has maintained full time employment for the last 8 years and is on apartment and vehicle. He also submitted a 2021 letter from the Department of Correctional Services documenting him as a low risk to reoffend based on their risk assessments. He appears to have been a good candidate for modification of his registration requirements.

[23:17] Andy: So maybe so, but the district court denied Feller's application. In doing so, it found JB to be an extremely credible witness and accepted her un rebutted testimony as fact, giving weight to her belief, which is based on her own experience and Feller's similar pattern with respect to his younger daughter that Feller's obligation to register should continue. Other factors it considered in determining that Feller presents a significant enough risk to reoffend that he should continue to register as included Feller's demeanor at the hearing, lack of remorse, and pattern of behavior. The district court did acknowledge that it was a difficult determination for the court. The court of appeals, while also admitting that this was a difficult case, affirmed.

[24:02] Larry: Yeah. He lost trial court at the court of appeals, so he got slapped down pretty hard.

[24:08] Andy: And, so, what is the modification process about?

[24:12] Larry: I've never seen this before. It's under, 692A.128. And it says a PFR may file an application. And I just lost it. Where do I go here? Go ahead and read it since I lost my place.

[24:36] Andy: So part 1 is a PFR may file an application in district court seeking to modify the registration requirements under this chapter. 2, for an offender whose requirements to register as a PFR commenced prior to July 1, 2022, an application shall not be granted unless all of the following apply. A, the date of commencement of the requirement to register occurred at least 2 years prior to the filing of the application for a tier 1 offender and 5 years prior to the filing of an application for a tier 2 or tier 3 offender. B, the PFR has successfully completed all PFR treatment programs that have been required, c, a risk assessment has been completed and the PFR was classified as a low risk to reoffend. The risk assessment used to assess an offender as a low risk to offend shall be a validated risk assessment, approved by the department of corrections. 2 more to go. D, the PFR is not incarcerated when the

obligation is filed. And then e, the director of the judicial district department of correctional services supervising the PFR or the director's designee stipulates to the modification, and a certified copy of the stipulation is attached to the application.

[25:50] Larry: Wow. That was a long list. I'm glad I could weasel my way out of reading that.

[25:56] Andy: [Chance: A lot of stuff. It is. It's a lot of stuff.] I always love when they put in there, make sure that you're not in prison when you try to file the application. I always love that one. But anyhow, the opinion states, here, the parties agree with the district court's conclusion that Feller met the threshold mandatory criteria for modification under Iowa code section 692 A.128, and then in parentheses, 2. So the only issue on appeal is whether the district or court abused its discretion in denying modification. The court may modify the registration requirements under this chapter if the applicant meets the threshold, threshold statutory requirements, the district court proceeds to the second step, namely determining in its discretion whether the registration requirements should be modified. Now that says may, doesn't say shall. How did he meet the abuse of discretion legal standards since it's a discretionary act?

[26:52] Larry: Very carefully.

[26:54] Andy: Thank you, mister Snarky.

[26:56] Larry: I from the opinion, it says a district court commits an abuse of discretion in an SOR modification case, quote, when it fails to consider a relevant factor or considers an improper or irrelevant factor on the question of whether the ongoing risk of danger from the PFR justifies continuation of the registration requirements. And they cited a case called Fortune. And it's 957 Northwestern Second at 707. In exercising this discretion, the district court must take care to ensure that public safety and not punishment provides the lens through which facts are evaluated. And that's referring back to that same citation. Now, that's pretty powerful. They're being pretty clear in in the Fortune case. We have previously explained this requires a district court to consider only those factors related to whether the applicant is low risk to reoffend, such that extending the applicant's registry requirements has no substantial benefit to public safety. To be clear, low risk does not equate to no risk and conclusory appeals to the public safety do not defeat the modification application. So this sounds like a very good outcome. And I didn't read the fortune case, but it sounds like that they've got a good framework.

[28:19] Chance: I'm sorry. I'm just gonna say that the spectrum here is moving in the right direction. You're moving away from conviction based and punishment type analyses to risk analyses. It's good. This is good.

[28:28] Andy: Yeah. That makes me think of the, what was the other case you said that we might cover, Larry?

[28:41] Larry: There was one from Massachusetts where the assessment board where they do a risk based system, he appealed their denial of his lowering of the risk, and that didn't go so well for him. We're gonna talk about that in a future episode.

[28:56] Andy: Right. Right. Right. Okay. And then in quotes, where only proper factors have been considered, we find an abuse of discretion only where there is clear error of judgment. Here, however, the district court considered improper factors that were either not supported by the record or not related to whether extending Feller's registry requirements was a substantial benefit to public safety. These include Feller's choice to testify by affidavit instead of personally. That was a critical factor.

[29:27] Chance: And speaking of which, the district court considered 2 really critical and proper factors. As Andy just mentioned, Feller's choice to testify by affidavit instead of personally. And just as critical, his courtroom demeanor, both of which were not relevant to assessing his risk to public safety.

[29:45] Larry: Yes. That's something, we fight with juries all the time, trying to get jurors not to consider irrelevant factors such as an accused exercising his or her right not to testify. In theory, a judge is trained to disregard irrelevant factors. Apparently, this judge did not follow that training. The high court found that the district court abused its discretion by relying on Feller's demeanor to find lack of remorse. According to the district court, Feller's demeanor was one of discomfort and avoidance as he did not make eye contact with the court nor with the witnesses who testified. Courtroom demeanor can be a valid factor, but the record in this case does not support the district court's reliance on it. Nothing in the record suggests Feller's demeanor was dismissive, threatening, or otherwise inappropriate. And we fail to see how his apparent discomfort and avoidance during inherently comfortable court proceeding is evidence that he is a threat to reoffend. That's powerful stuff.

[30:53] Andy: Let me ask you both the question then. How if you are going to demonstrate remorse and all of that, were you supposed to go in there, like, crying and crawling on your knees begging for forgiveness? And you're in an incredibly uncomfortable situation, and you're probably

trying to, like, hold your head up high and have pride and whatnot and, you know, have armor up on your expressions and all that. How are you supposed to display this?

[31:19] Chance: Well, you're not supposed to grovel. That's you're supposed to be sincere. Very, very sincere. And, you know, in showing that, you know, you're sorry for this particular act or acts. And that takes a lot of sincerity. It's just it's just looking straight at straight at the court and saying, you know, what's on what's on your heart and what's in your mind and expressing sincere regret. That's it in a nutshell. But then if you don't,

[31:47] Andy: But then if you don't speak on your own behalf, then what are you supposed to do?

[31:52] Chance: You can do it by affidavit. You can do it by letter to the court. But it's not just going up and saying, I'm remorseful. Like for what? That's what gets you into the weeds. It's expressing sincere and true regret for whatever, you did. You know, not for getting caught but for what you did. And it has to be sincere, and it can be sincerely expressed in an affidavit. It can be sincerely expressed in a letter. It can be sincerely expressed verbally. But it's gotta be a sincere expression of that. And one thing I will say, and this happens a lot in court, people get nervous. They get distracted. They get overwhelmed. It's a bad experience. It's traumatic. And it's not easy to get up and say anything in court. And when a judge is then looking at you and judging you by all these different nonverbal things that they're studying, okay, that they do typically in in trial. They're looking, you know, for all kinds of things that just don't exist in this type of hearing. This is not that type of hearing. That's this type of hearing. And so in this type of hearing, those things don't matter.

[33:07] Andy: Gotcha. And he chose to testify by affidavit.

[33:12] Chance: That's sometimes a very good thing to do because I think it's easier, to express your sincere regret on paper, in a thoughtful way than to all caught up in the weeds, nervous, and overwhelmed, and have anxiety, and totally melt down in front of a judge.

[33:29] Andy: Absolutely. Well, okay. So, we need to wrap this up. And to end, the court stated, in this case, remand for a new hearing to reassess Feller's application without consideration of the improper factors is unnecessary. The state acknowledged as much at oral argument conceding that there is not enough evidence that Feller poses a threat to public safety if we exclude Feller's letters to LF from consideration. Thus, we remand and order granting Feller's application. Now, does this mean it's all over, like he can spike the football?

[34:04] Larry: It does mean that They also acknowledged, in doing so, we note that Feller would have been removed from the PRFR registry after 10 years if not for the procedural path that the state chose, which resulted in 2 separate case numbers instead of 2 counts that should have been part of a single case. And they cited the appropriate code section. This too speaks to the issue of public safety because the legislature determined that Feller's crime should only require registration for 10 years as opposed to lifetime he is facing absent modification. Our decision to remand for the district court to grant Feller's application aligns with the legislature as directive. If I could give one word of caution to judges, never tell the legislature what they meant because they will come back and they will tell you, no. That is not what we meant. All you have to do is look at Wisconsin when the attorney general issued that opinion that said that 2 separate counts within the same case represented separate conduct and that you were a recidivist. And the Supreme Court of Wisconsin said, no. That's not what that meant. And the legislature came back and said, nope. You got it wrong. That is precisely what we meant. And they adopted that reasoning. So, at court, you need to be careful what you put on paper because you can't tell the legislature what they meant.

[35:29] Andy: Alrighty then. Well, Chance, I completely botched. It's been so long since you were here. I totally forgot to introduce you again and welcome you back to the program. So, hey, welcome back. I apologize again. [Chance: Thank you. Thank you. Thank you. And It's good to be back.] Yeah. Thank you. I'm glad you're back. Today's, Chance is going to briefly discuss California's tiered system of relief for PFR registration and why. I mean, like, seriously, does anybody need to ask why it's so important to take advantage of it? But that's what we're gonna talk about.

[35:58] Larry: Yes. In 2021, California implemented a tiered system for PFR registration, a significant shift from their previous lifetime requirement. Yours truly was very critical. The new system categorizes offenders into 3 tiers based on the severity of their offenses with corresponding registration periods of 10 years, 20 years, a lifetime. But why is this change so important, Mr. Chance?

[36:25] Chance: Well, you know, first and foremost, the tiered system offers a path to relief for many individuals who have demonstrated rehabilitation and pose a low risk to public safety as we've said time and time again and talk about all the time. By allowing these individuals to petition for removal from the registry after a specified period, the system acknowledges their efforts to reintegrate into society and lead productive lives. At least, that's the theory behind it. Unfortunately, not enough registrants are taking advantage of this opportunity. According to the California Department of Justice, and I'm talking as of May of 2024, 6,

7 months ago, the total number of people required to register in California is 104,894. The number of petitions filed requesting termination of the requirement to register has grown to 8,646. Of that total, 6,704 petitions have been granted, 123 petitions have been denied, and 491 petitions have been dismissed. There are about a 1,308 petitions pending review.

I think that the numbers pretty much lead to this. This underutilization means that countless individuals remain burdened by the stigma of their past, unable to fully reclaim their lives because they simply are not taking advantage of it. I mean, imagine being burdened. Yeah. Imagine. Everybody imagine being a burden with the stigma for life regardless of the nature of the offense or the progress made sense. You know, what are you doing? The tiered system provides a more nuanced approach recognizing that not all offenses are equal in terms of severity and risk. And this is a critical step towards a more just and equitable legal system. Something I just mentioned a moment ago, which is how the spectrum is moving from conviction based and punishment to risk. And that makes it a lot more equitable. Additionally, the tiered system helps law enforcement focus their resources on monitoring high risk offenders. By reducing the number of individuals on the registry, authorities can allocate more attention and resources to those who pose a genuine threat to public safety. This targeted approach enhances community protection and ensures that the registry serves its intended purpose of protecting the public. For those eligible for relief, taking advantage of this tiered system can be life changing. It opens doors to employment, housing, and social opportunities that were previously closed. It allows individuals to move forward without the constant shadow of their past mistakes. And most importantly, it offers a chance at redemption and a fresh start.

[39:18] Larry: And let me go off script here a little bit. When this system was developed, I predicted it would be minimally used. In my opinion, it is still too complicated. In my opinion, they could have done a better job of doing it and they would have more success rate. But, they had over a 100,000 people on it, on the registry in California when they passed this two plus years into it, they've still got over a 100,000 people on the registry. 6,000 have gotten off. But the people have been removed, have been offset by new additions. So, the registry is just as bloated as it ever was. But, anyway, let's not forget the collateral effects on the registrants' families and their loved ones. The stigma and restrictions can deeply affect spouses, children, and extended family, often limiting their social and economic opportunities, suppressing your earnings for the rest of your life. Relief of registration doesn't just liberate the individual. It breathes new life into the family unit, fostering a supportive and stable environment.

[40:17] Chance: Yeah. It you know, agreed. And, you know, if you're someone who you know is or if there's someone you know who is eligible for relief under California's tiered system, and that and that means you or someone else close to you, it's crucial to seek legal advice and begin the petition process immediately. This journey may be challenging, but potential rewards are immense. Remember, justice isn't just about punishment. It's about fairness, rehabilitation, and the opportunity for a second chance. Take advantage of it.

[40:53] Larry: Well, when you say take advantage of it, I know you can't give specific pricing, but for those who are wanting a ballpark, is there any way you can tell them? I think the fear tactic of I gotta get a lawyer, not rolling in the dough. What would be, at least a range of pricing that you would be looking at for a removal petition?

[41:19] Chance: Well, there is all kinds of range of prices because there's like zero range, which is the public defender's office if you qualify. There are some people that are advertising doing it for a \$1,000 to \$3,000. Not exactly, you know, describing what the process is. So later they can charge maybe double or 3 times for a hearing if necessary. For me, I work on a sliding scale. And it's anywhere from \$2500.00 on up depending on what the complexity is. Depending on what the level is, and that type of thing. So, for me, it's important that if someone contacts me, they're able to talk about their case. They know what they've been convicted of. They maybe have an idea of what their tiers tier is because they've received a tier letter. If not, we gotta find out. And then a bunch of other factors that I look at and take into consideration as whether or not gonna get to a hearing and have to litigate this. So I can't really say precisely, but I can say that, you know, starting around 25100 for the, like, the, you know, the most simplistic type things and working on that for me.

[42:31] Larry: [Andy: Couple, questions. 1 with go ahead, Larry. Did you wanna say?] I was gonna say that, Chance, that sounds very reasonable because if we had such a process here, I can't imagine we would be as low as you as you're saying that your simple case would be. So, I think that, certainly give your contact information at the end of the program and all that kind of stuff, but that sounds very reasonable. Go ahead with these questions that popped up.

[42:57] Andy: So, does this apply to specific tiers, or does it apply to everybody? 1, 2, 3, what tiers?

[43:03] Chance: Mostly, tiers 1 and tiers 2. There are some people that are up in tier 3 because their risk level is high. They can come out of tier 3, but otherwise, tier 3 is life.

[43:16] Andy: And then does it apply to people who move to California from another state? [Chance: Great question. And the answer is, yes.] Is there is there a time limit in state or anything like that? I mean, like, the person that's asking this question has been on the registry since we invented the alphabet.

[43:36] Chance: A long time. It You've gotta You've got to determine, and this is why you wanna contact an attorney, whether or not there's a state equivalent, what tier it falls into, and then it comes down to how much time you've actually registered. [Andy: He's been on the registry, I think, since the ninety's ish?] Yeah. So, the real issue here is what this particular individual is convicted of and where it falls on our tier system.

[44:03] Andy: And then, if was this put through in a recent bill in California to put all this together? And if so, what bill was it?

[44:11] Chance: It was I think it was AB 384, if I'm not mistaken. Anyways, it was a couple of 3 years ago, maybe. And, and, you know, the reason I'm discussing it today and I'm saying more people should take advantage of it is I think that, you know, as Larry rightfully said, you know, it's not making much of a dent. Not enough people are taking advantage of it. And, you know, so not enough people are peeling off of it and not and it's being refreshed by new cases and new individuals registering every day. But the option's there to take advantage of it. And I do think that still a lot of people, 1, either don't know about it or are too fearful to take advantage of it or think it's too ominous in terms of finance or whatever. It's not. You can get there.

[45:08] Andy: I know my life is different after being deregistered.

[45:12] Chance: Totally. Totally. Anything else? I think that's it.

[45:21] Andy: Alright. Well then, before we go, do you have anything else, Larry? I know that you wanna get out of here because you're all cranky and whatnot. [Larry: No. I think I've covered it as best I know how.] Very well. So, before we go, there's something fun for you. We've hidden a small puzzle in today's episode, something you might not have noticed the first time around. If you can figure out the answer, you'll be entered into a drawing to one of our podcast t shirts that you can check out over at fypeducation.org

[45:48] Larry: So, here's how it works. Go back, listen carefully, and when you think you figured it out, send your answer to regifreematterscast@gmail.com.

[46:04] Andy: And I will be nice to you and give you a clue, and it's something tied to the Iowa section. And so if you have to go back and listen to it, you can speed it up, slow it down, all of those other things. And I will, we will announce the winner next week. So good luck, and I look forward to your emails. And, again, that's registrymatterscast@gmail.com. Any closing words from anybody? Anybody have any just final thoughts before we, shut everything down?

[46:33] Larry: We may have scheduling difficulties next week, so don't count on your normal arrival time because I will be in a strategic planning session at our normal recording time. So, we will be announcing some adjusted times for next, episode.

[46:48] Andy: Very well. Anything else, Chance?

[46:52] Chance: No. No. Just thank you for joining us for another show.

[47:00] Andy: And, so head over to registrymattersdot.co for show notes. And voice mail, 747-227-4477. I just gave the email address, but that's registrymatterscast@gmail.com. And please, for all of the patrons that have supported us, especially like Mike who asked the question earlier, like, for years, I can't thank you enough. It is incredibly generous. Even for a dollar, it just it's much, much, much appreciated. And that's over at patreon.com/registrymatters. And, well, that's all I got. So I guess, we will talk to you in a week or so depending on scheduling conflicts and all that jazz. Hope you all guys have a great night.

[47:40] Chance: Good. Thank you. Thank you. Good night.

[47:46] Announcer: You've been listening to FYP.

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