

NARSOL quoted in analysis of recent Colorado Supreme Ct. ruling

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By [Michael Karlik](#) . . . Although the Colorado Supreme Court insisted its ruling applied narrowly, advocates for defendants believe the justices have laid a foundation for challenging the constitutionality of the state's sex offender registration laws more broadly.

On Monday, the Court decided by 6-1 that it violates the Eighth Amendment's prohibition on cruel and unusual punishment for Colorado to require repeat juvenile sex offenders to register for life on the sex offender registry without possibility of removal. Justice Monica M. Márquez, [writing for the majority](#), found one overriding principle that guided the determination.

"[A] wealth of social science and jurisprudence confirms what common sense suggests: Juveniles are different," she noted. . . .

Within the majority's rationale for striking down the mandatory lifetime registration for children, however, some saw hope for challenging the constitutionality of similar requirements for other populations.

"I would not be at all surprised if, at some point in the relatively near future, someone argues that adult lifetime sex offender registry is punishment etc., and cites this opinion's reasoning in support," said Ian P. Farrell, a constitutional and criminal law professor at the University of Denver. . . .

Márquez made it clear that the Court was not speaking to the constitutionality of lifetime registration for adults, nor was it casting judgment on the practice of registering children in the first place. However, Johnson [attorney for the minor who brought this case] and other attorneys believed the Court's majority had presented a decent argument for striking down mandatory lifetime registration for other groups of people, if not for everyone. . . .

One passage in particular appeared to support the notion that the effects of mandatory lifetime registration amount to punishment universally.

"In sum," Márquez wrote, "mandatory lifetime sex offender registration for juveniles imposes affirmative disabilities and restraints; resembles traditional shame-based punishments; promotes deterrence and retribution; applies only to criminal offenses; and does not bear a rational relationship to – and is excessive in light of – its nonpunitive purposes."

Sandy Rozek of the National Association for Rational Sexual Offense Laws said, in reviewing the Court's opinion, that the ". . . reasons given for juveniles regarding lifetime registration apply to adults also. The registry, whether applied to juveniles or adults, creates conditions which inhibit successful rehabilitation and is therefore against the best interest of society."

[Read the full piece here at Colorado Politics.](#)