

# Wyoming Supreme Court Victory

written by admin | April 28, 2023



By Larry . . . This win is fantastic, and the case is one of the most fascinating cases I've written about for NARSOL. Many critical legal issues are combined into one case, which is unusual. Our hope is that each reader will have a better understanding of: (1) binding precedential decisions; (2) cases that aren't binding but are cited as persuasive authority; and (3) that textual interpretations aren't always detrimental to our cause.

James Bullard Minter pled guilty in 1999 to misdemeanor sexual battery in Georgia and, [according to sources](#), was not required to register. In 2019 Minter was living in Casper, Wyoming when a federal agency informed the Wyoming Division of Criminal Investigation (DCI) that it had intercepted a firearm suppressor addressed to Minter. DCI performed a background check on Minter and discovered his Georgia conviction. DCI directed the Natrona County Sheriff's Office to inform Minter that his conviction required him to register in Wyoming.

Minter registered as directed but filed a petition in district court seeking relief from the requirement. The district court

granted the relief he had sought. DCI then intervened and moved for relief from the judgment. The district court vacated its judgment and granted DCI summary judgment. The court decided that Minter's misdemeanor conviction in Georgia was the equivalent of felony second-degree sexual abuse of a minor in Wyoming.

An amazing fact is, ". . . the State of Wyoming, through the Natrona County District Attorney's Office, joined Mr. Minter's petition in his favor. It asserted that '[b]ased on the information the State has it is incredibly difficult to know what the facts or circumstances of Petitioner's conviction were.' It contended it therefore had to rely on an elements comparison to determine the equivalent Wyoming offense, which it agreed was sexual battery." *Opinion* at 3. It also asserted, ". . . a review of Petitioner's criminal history indicates that he has had no criminal activity or convictions since serving his sentence in Georgia. For twenty years he has remained a law-abiding citizen. To require him to register 20 years later with no further criminal involvement seems unjust." *Ibid.*

The issues before the Wyoming Supreme Court were: (1) may DCI rely on dismissed charges to determine the facts or circumstances out of which an alleged sex offender's conviction arose? and (2) may DCI require someone to register before it determines he or she has been convicted of a registerable offense? DCI's position that it knew Mr. Minter to be an offender when it required him to register is based on its assumption that it may rely on a dismissed charge to determine the facts and circumstances of a conviction. The court found that assumption is flawed. The court stated, "When interpreting statutes, we seek the legislature's intent as reflected in the plain and ordinary meaning of the words used in the statute, giving effect to every word, clause, and sentence." *Id* at 7. Most importantly, the court stated, "The 'omission of words from a statute is considered to be an

intentional act by the legislature, and this court will not read words into a statute when the legislature has chosen not to include them.’ “ **Ibid.**

The Act requires an “offender” to register, and it defines that term succinctly. “ ‘Offender’ means a person convicted of a criminal offense as specified in W.S. 7-19-302(g) through (j), 6-2-702, 6-2-703, 6-2-705 or 6-2-706,” or an offense “. . . in any other jurisdiction containing the same or similar elements.” **Ibid.**

The court stated, “It follows that the conduct that DCI may consider in determining a registerable offense must be conduct for which the offender was convicted.” **Id** at 8.

The court pointed out, “. . . states that allow consideration of conduct underlying an offense to determine equivalence have concluded likewise.” **Ibid.** They cited **Doe v. Frisz**, 643 S.W.3d 358, 362-63 (Mo. 2022). “The Frisz court there rejected reliance on abandoned pleadings where offender is defined as one convicted of offense. They cited the New Mexico Supreme Court’s decision in **State v. Hall**, 294 P.3d 1235, 1236 (N.M. 2012). The Hall court held that to determine equivalence, courts must look beyond the elements of the conviction to the defendant’s actual conduct.” **Ibid.**

The state of Wyoming attempted to claim that federal law mandates a different outcome. The court stated, “The federal Sex Offender Registration and Notification Act (SORNA) does not compel a different result. Contrary to DCI’s assertion, the Wyoming Act is not required to comply with SORNA. As the Tenth Circuit has observed, SORNA does not compel a state to do anything. Instead, it conditions a state’s receipt of certain federal funds on substantial implementation of SORNA’s registration requirements.” **Id** at 11. This has been this writer’s position for many years, and we are delighted to see that the Wyoming Supreme Court agrees with us.

In conclusion, the court stated, "The Act defines an offender as one convicted of a registerable offense. Because the requirement to register as a sex offender is premised on a conviction, DCI may not rely on dismissed charges to determine an individual's registration requirements. Additionally, DCI may not require someone to register before it knows he or she was convicted of a registerable offense." *Id* at 17. NARSOL is delighted with this outcome.