APPENDIX

FILED
United States Court of Appeals
Tenth Circuit

July 29, 2020

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANTHONY LYNN WOOD,

Defendant - Appellant.

No. 19-1477
(D.C. No. 1:19-CR-00196-RBJ-1)
(D. Colo.)

ORDER AND JUDGMENT*

Before **HARTZ**, **BALDOCK**, and **CARSON**, Circuit Judges.

In 1999, Georgia state courts sentenced Defendant Anthony Wood for several sex offense convictions. In 2006, Congress enacted the Sex Offender Registration and Notification Act (SORNA), 34 U.S.C. §§ 20901 et seq. SORNA established a comprehensive, national sex offender registration system. In SORNA, Congress gave the Attorney General the authority to determine SORNA's retroactive reach. Exercising that authority, the Attorney General concluded that SORNA should apply

* After examining the briefs and appellate record, this panel has determined unanimously to honor the parties' request for a decision on the briefs without oral argument. See Fed. R. App. P. 34(f); 10th Cir. R. 34.1(G). The case is therefore submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

to all pre-Act offenders—thus requiring Defendant to comply with the new registration scheme.

Defendant failed to register. A federal grand jury indicted Defendant for failure to register in violation of 18 U.S.C. § 2250(a)(1), 2(B), and (3). [ROA Vol. I at 4–5.] Defendant filed a motion to dismiss the indictment, contending that Congress unconstitutionally delegated legislative power to the Attorney General when it authorized the Attorney General to determine SORNA's applicability to sex offenders convicted before the enactment of the statute. [Id. at 7–12.] The district court denied that motion. [Id. at 14.]. Defendant entered a conditional guilty plea and appealed the district court's denial. [Id. at 15.] Exercising jurisdiction under 28 U.S.C. § 1291, we review de novo the district court's denial of a motion to dismiss an indictment. United States v. Wagner, 951 F.3d 1232, 1253 (10th Cir. 2020).

In this case, our inquiry is a short one. Defendant acknowledges that the Supreme Court's decision in Gundy v. United States, 139 S. Ct. 2116 (2019), and our prior decision in United States v. Nichols, 775 F.3d 1225 (10th Cir. 2014), rev'd on other grounds, Nichols v. United States, 136 S. Ct. 1113 (2016), foreclose his argument. [ROA Vol. I at 10.] Defendant concedes that he raises this argument only for the purpose of preserving it for future appeal or in the event of an intervening change in the law. [Id. at 11; see also Opening Br. at 2.] We agree with Defendant that the Supreme Court upheld Congress's SORNA delegation.[1] Gundy, 139 S. Ct. at

[1] We recently rejected the same argument Defendant raises here. United States v. Six, 775 F. App'x 443, 444 (10th Cir. 2019) (unpublished) (rejecting the same

2130–31 (Alito, J., concurring) (plurality opinion); see also Nichols, 775 F.3d at 1232 (reaching the same conclusion as Gundy that Congress's SORNA delegation did not violate the nondelegation doctrine).

Of course, we are bound by Supreme Court decisions and cannot overrule a prior panel decision of this Court. United States v. Manzanares, 956 F.3d 1220, 1225 (10th Cir. 2020). Accordingly, we conclude—as Defendant concedes—that Defendant's argument fails.

AFFIRMED.

Entered for the Court

Joel M Carson III
Circuit Judge

argument because "Gundy did not disturb our prior holding in Nichols that [SORNA] did not violate the nondelegation doctrine"); see also Gundy, 139 S. Ct. at 2128 (clarifying that SORNA does not allow the Attorney General to determine whether to apply the Act to pre-Act offenders, but only how to do so).

MIME-Version:1.0
From:COD_ENotice@cod.uscourts.gov
To:COD_ENotice@cod.uscourts.gov
Bcc:
--Case Participants: Alecia Lynne Riewerts (alecia.riewerts@usdoj.gov, caseview.ecf@usdoj.gov, portia.peter@usdoj.gov, usaco.ecfcriminal@usdoj.gov), Laura Hayes Suelau (clarita_costigan@fd.org, co.ecf@fd.org, laura_suelau@fd.org), Judge R. Brooke Jackson (jackson_chambers@cod.uscourts.gov)
--Non Case Participants: Probation-General (cod_efiling@cod.uscourts.gov), USM Warrants Division (jonathan.walker@usdoj.gov, usms.cod-warrants@usdoj.gov), USM-Criminal Division (bradshaw.perry@usdoj.gov, gillian.fleck@usdoj.gov, jason.brackett@usdoj.gov, joseph.braaten@usdoj.gov, royce.namoca@usdoj.gov, usms.cod-criminal@usdoj.gov)
--No Notice Sent:

Message-Id:7214691@cod.uscourts.gov
Subject:Activity in Case 1:19-cr-00196-RBJ USA v. Wood Order on Motion to Dismiss
Content-Type: text/html

U.S. District Court - District of Colorado

District of Colorado

Notice of Electronic Filing

The following transaction was entered on 9/12/2019 at 8:35 AM MDT and filed on 9/12/2019

Case Name:	USA v. Wood
Case Number:	1:19-cr-00196-RBJ
Filer:	
Document Number:	25(No document attached)

Docket Text:
ORDER denying [24] Motion to Dismiss as to Anthony Lynn Wood (1). By Judge R. Brooke Jackson on 9/12/19. Text Only Entry (rbjsec.)

1:19-cr-00196-RBJ-1 Notice has been electronically mailed to:

Alecia Lynne Riewerts Alecia.Riewerts@usdoj.gov, CaseView.ECF@usdoj.gov, USACO.ECFCriminal@usdoj.gov, portia.peter@usdoj.gov

Laura Hayes Suelau laura_suelau@fd.org, clarita_costigan@fd.org, co.ecf@fd.org

1:19-cr-00196-RBJ-1 Notice has been mailed by the filer to: