No 18 · _____

Supreme Court of The United States

ANDREW AAMES, petitioner

v.

THE UNITED STATES OF AMERICA,

STATE OF MISSOURI,

JACKSON COUNTY, Respondents

On Petition for a Writ of Certiorari to the

8th Circuit Court of Appeals

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QUESTIONS FOR REVIEW:

1. Can the combined effect of federal, state, county and local sex-offender laws, obligations and restrictions, as applied, ever constitute 'cruel and unusual punishment' in violation of the U.S. Constitution?

2. Does the government's sex-offender registration scheme violate the separation-of-powers clause(s)? [Neither the District Court nor the Appellate Court adequately discussed this issue, even though Petitioner, Aames, raised it in his lawsuit].

3. Do sexually-mature [past puberty] but legally-underage gals have a constitutional privacy-right to CREATE fetuses, or only to abort them? If they have a right to create them also, do the sex-offender laws unduly interfere with that right? [this issue was not fully briefed below, but the Supreme Court can raise it sua sponte]. Minor's abortion rights were confirmed by Planned Parenthood of Central Missouri v. Danforth, 428 U.S. 52 [1976]

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PARTIES TO THE PROCEEDING:

Andrew B. Aames, plaintiff, in pro se

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by

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by

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Jackson County [Missouri], defendant

by

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DECISIONS BELOW:

Federal Court, Western District Of MO: Andrew B. Aames, Plaintiff, vs. United States of America, et al., Defendants No. 16-00255-CV-W-FJG [March 17, 2017]

8th Circuit Court of Appeals: Andrew B. Aames, Plaintiff-Appellant, vs. United States of America; State of Missouri, MO Jackson County, Defendants-Appellees, Does 1 thru 99, defendant Case No. 17-1619

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[11/29/2017; 'rehearing denied' 12/28/2017]

Aames' federal complaint for declaratory relief was dismissed by the District Court in Kansas City [Western District Of Missouri], on 3/17/17, for 'failure to state a claim upon which relief could be granted'. The District Court Judge ruled that sex-offender-related-laws could never be considered cruel-and-unusual-punishment, because an Eastern District of Missouri case had stated that such laws are not intended as punishment; It was said there that the sex-offender registration scheme is non-punitive.

On page eleven of district court judge Gaitan's 3/17/17 dismissal order, he wrote: " ... The court finds that plaintiff cannot state a Section 1983 claim because SORNA's registration scheme has been held to be non-punitive, so it cannot constitute cruel and unusual punishment under the Eighth Amendment. ..."

The District Court Judge in Kansas City did not specifically provide Aames with a period of time within which to amend his lawsuit. Apparently, the judge figured that no mattter how Aames drafted his lawsuit, he would not be able to state a claim for 'cruel and unusual punishment' arising out of sex-offender-related laws.

[Interestingly, since that time, *in a different case,*

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Judge Richard Matsch, a federal judge in Colorado, has correctly recognized that sex-offender-related-laws, as applied in the cases of three males, were indeed cruel-and-unusual-punishment; The three plaintiffs in that case were David Millard, Eugene Knight, and Arturo Vega. Judge Matsch's 8/31/2017 decision has been very recently appealed by the State of Colorado. If the U.S. Supreme Court wanted to snag that case, even before decision by the 10th Circuit Court of Appeals, it could do so under Supreme Court Rule 11. Then, if it wanted to, it could decide that case together with this Aames case. The case numbers of that Denver case are: 1:13-cv-02406-RPM, (and case# 17-1333 in the 10th Circuit Court of Appeals). Case name there: Millard et al. v Rankin, I believe]

JURISDICTION:

The U.S. Supreme Court has jurisdiction to hear this case, if it so chooses, under 28 USC 1254(1), and under Supreme Court Rule 10(c):

To wit: The 8th Circuit Court of Appeals has [1] decided an important question of federal law that has not been, but should be, settled by this Court, ...and [2]has decided an important federal question in a way that conflicts with relevant decisions of this Court.

It has not yet been decided by the Supreme Court if [1] sex-offender restrictions and obligations can, as a matter of law, constitute cruel and unusual punishment.

In this Aames case, [2] the lower courts appear to have ignored the requirement for 'proportionality' between the crime and the punishment, as called for by the majority in the case of Kennedy vs Louisiana, 554 U.S. 407, 128 S.Ct. 2641, 171 L.Ed.2d 525 (2008).

Jurisdiction is also had under 42 U.S. Code § 1983 - Civil action for deprivation of rights, 28 U.S. Code § 2201 - Creation of remedy [declaratory relief], FRCP Rule 57 [declaratory relief], 8th Amendment of U.S. Constitution, 28 U.S.C. 1331 [Federal Question].

The final decision of the 8th Circuit Court of Appeals, denying rehearing, was dated 12/28/2017. The 8th Circuit's first decision, approving the District Judge's decision [also unfavorable to Appellant] was dated 11/29/2017. The District Court judge's opinion had been dated 3/17/2017.

CONSTITUTIONAL PROVISIONS

U.S. Constitution, 8th Amendment:

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual

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punishments inflicted."

The concept of Separation of Powers is embodied in the Constitution in the 1st Article, in the 2nd Article, and in the 3rd Article.

Due Process Clause of the 14th Amendment. Section 1. "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

STATEMENT OF THE CASE

Sex-Offender Law is important for the following reasons:

There are almost a million sex-offenders now in the USA. All fifty states, and the District of Columbia, maintain registries.

Juvenile offenders account for about 25% of sex-

offenders. Some young people have committed suicide when confronted with the prospect of becoming registered as a sex-offender.

Restrictions on the interstate and/or overnight travel of almost one-million sex-offenders have a significant impact on interstate commerce; Segments affected include the hotel industry, the airline industry, restaurants, rental cars, bus lines, taxis, and so forth.

The restrictions also affect the housing industry; Housing prices are 'artificially' depressed in certain areas where almost one-million potential investors are leery of buying or investing ... especially areas near schools, near parks, or near day-care centers. Savvy sex-offenders avoid buying housing in certain states, because they know that a day-care center could later pop-up nearby, and thus prohibit a residence there for the sex-offender.

Sex-offender laws discourage sex-offenders from pursuing jobs, volunteer-employment and higher education: If you were required to sit around for two or three hours in a government office every time you wanted to do 'x', 'y' or 'z', you'd be discouraged from doing 'x', 'y' or 'z' too.

Most importantly, perhaps, the sex-offender laws appear to be driving down American birth-rates to new, dangerously-low levels.

Aames is required to register as a sex-offender

because he was convicted in 2008 of 'annoying or molesting' a minor. One evening while drinking, he put his arm around

the waist of a large, fifteen-year-old, African-American gal in California, and offered her a kiss. Her mom found out, the police were called, and Aames was arrested. Two neighbors saw the same teenage gal burglarizing Aames' house, along with four of her teenaged friends, on the night of his 2008arrest in California; Those neighbors were not allowed to testify at Aames' criminal trial because the trial judge figured that the events that occurred after 'the molestation' were irrelevant.Aames moved to Missouri, and since that time, has repeatedly been hassled, badgered, charged, fined and jailed by local authorities in connection with his sex-offender status, for no logical reasons.

In Kennedy vs Louisiana, 554 U.S. 407, 128 S.Ct. 2641, 171 L.Ed.2d 525 (2008), the majority of Supreme Court justices relied upon the concept of 'proportionality' between the crime and the punishment, in deciding an 8th Amendment case.

Similarly, in the 8th Circuit, in Jackson vs. Bishop 404 F.2d 571 (8th Circuit 1968), the court stated: " ....In summary, then, so far as the Supreme Court cases are concerned, we have a flat recognition that the limits of the Eighth Amendment's proscription are not easily or exactly defined, and we also have clear indications that the

applicable standards are flexible, that disproportion, both among punishments and between punishment and crime, is a factor to be considered, and that broad and idealistic concepts of dignity, civilized standards, humanity, and decency are useful and usable. ..."

Aames' appeal of the Kansas City District Court's decision to the 8th Circuit Court of Appeals was fruitless; The Court of Appeals denied Aames' Petition-For-Rehearing/Petition-For-En-Banc-Determination on or about 12/28/2017. In addition to Constitutional issues, Aames' paperwork raised public-policy-issues, and raised the issue of dangerously-falling-birth-rates, both before the District Court and before the Appellate Court.

Petitioner is a typical sex-offender, required to follow and abide by a complex and confusing set of registration rules, travel rules, internet-use rules, and housing rules. He was originally convicted in California for offering a kiss to a fifteen-year-old gal.

The matter was dismissed by the District Court, not for lack of standing, but for failure to state a case.

Jurisdiction of the lower court was also based on a civil action for deprivation of rights, 42 U.S. Code,

Section 1983. The 8th Amendment of the United States Constitution protects against degrading 'treatment' or punishment, and protects against punishment or 'treatment' that is applied in a wholly arbitrary fashion. Plaintiff here asserts that his continuing, lifelong, sex-offender registration requirements, as applied, are cruel, degrading and unusual, in that his initial sex-related offense conviction was for simply putting his arm around the waist of a fifteen-year-old gal in Riverside County, California, and offering her a kiss. Aames was briefly jailed for alleged sex-offender-registration snafus in 2016, and in 2017. It is wholly arbitrary that sex-offenders such as plaintiff are required to comply with burdensome registration requirements, residency restrictions, restrictions of movement, restrictions of employment, and the like, while convicted murderers, convicted arsonists, convicted second-degree murderers, convicted manslaughterers, convicted maimers [mayhem], convicted armed robbers, convicted kidnappers, convicted aggravated assaulters, and convicted batterers are not required to register. Under SORNA, petitioner faces the possible prospect of lifetime imprisonment, or long prison terms, if he becomes homeless. He currently has an ongoing dispute with the County about whether or not he is allowed to live within 1000 feet of a public school.

PUBLIC POLICY ARGUMENTS, BIRTH RATES:

The sex-offender laws are bad for the USA. They have been driving down the birth rate, and

continue to do so. They are unconstitutional, illogical, unfair, demeaning, burdensome, byzantine, and confusing.They violate the 'separation of powers' clause & improperly bypass the judge's role, and fact-finders' role, in criminal cases and in sentencings.The United States' population growth is at an historical low level, and the United States' current birth rates are the lowest ever recorded. The current U.S.A. birth-rates are not high enough to maintain the size of the U.S.A.population, according to The Economist. At current birth rates, the USA will lose half of its population within three or four generations. Of course, foreigners will continue moving here, little-by-little replacing the 'missing' persons.

[The situation is even worse for South Korea. As of 2014, it was the only other country in the world to have a nationwide, public, sex-offender system. Their birth rates have fallen so low that they are projected to lose 80% of their population in three generations!!]

Theories of evolution teach us that survival is for 'the fittest'. Groups of people [or other organisms] that do not maintain adequate birth rates are considered 'unfit' by 'Mother Nature', and are generally headed for extinction. How does the extinction occur? Normally those with inadequate birth-rates are overrun by, and replaced by, those from groups with higher birth rates. These profound changes occur over time, and often go unnoticed by people with lower intelligence. Sometimes violence and war are involved, sometimes not.

Groups that are currently expanding numerically, and emigrating in substantial numbers, include North Africans, West Africans, Central Africans, Middle Easterners, Turks, Afghans, Central Americans, South Asians, and Filipinos. Groups that are contracting in numbers, and thus moving towards extinction, due to low birth-rates, include South Koreans, Italians, Germans, Serbians, Greeks, Canadians, and Americans. The Japanese have dangerously low birth-rates, but they are somewhat insulated from take-over by geography.

Yearly birth rates ranging from 10–20 births per 1,000 are considered low, while rates from 40–50 births per 1,000 are considered high. There are problems associated with both extremes. Since 2008, birth rates in the USA have fallen from 14.2 to around 12.5.In 2013, teenage birth rates in the U.S. were at the lowest level in U.S. History [lowest until that time, that is]. Teen birth-rates in the U.S. have generally decreased from 1991 through 2012, and continue declining even today.

Prior to the mid 90s, few states were engaged in sex-offender registration; Few states offered public sex-offender websites. In 1994, the federal government passed laws requiring states to register sex offenders, or forfeit 10% of federal funds from a federal crime control program. By late 1996, all states were registering sex offenders, but not all states had sex offender information available to the public. By 2006, most states had sex offender information available to the public, and the feds were pushing for complex, multi-tier systems of

sex-offender registration.

So, what's the connection between falling birth-rates, and sex-offender registration? It seems quite obvious to me. The U.S.A. birth-rates, especially the teen birth-rates, have been falling during the time that the governments have been setting up these byzantine sex-offender registration laws. The 'sex-offender crackdown' started in the 90s. In many states, registration is akin to lifetime probation; Some case law says it's not 'punishment', and not intended as punishment, but any sex-offender will tell you that the practical effect of the complicated sex-offender registration laws is 'punishing' from the offender's point of view. If it wasn't 'punishing', young people wouldn't be committing suicide because of it. This additional burden placed on criminals who have already 'served their time' has a chilling effect on normal teenage sexual activity. Children as young as nine have been placed on the registry; Juvenile offenders account for around 25 percent of registrants.Now, many 'underage' young women are having abortions to keep their boyfriends off the sex- offender registry lists here in the U.S.A.

Any group of people that maintains its fertility rate below the 'replacement level' faces extinction and extermination, over time. The fertility rate in the United States is now only 1.8, or lower, which is well below the replacement rate of 2.1 [1.8 children per woman, per lifetime]. This 'law of extinction' is a rather simple law of nature. If Mother Nature didn't want teenagers to have babies, she wouldn't have given teenagers the ability to have children. Although the extinction, or extermination, takes place over a long period of time, decades or even

centuries, this doesn't make it any less real or any less final. Sex-offender laws are not the only thing pushing birth-rates down, but they are a significant factor nevertheless.

SEPARATION OF POWERS:

On the issue of separation of powers, Honorable Judge Gaitan's order and discussion do not squarely address the issue. The criminal court systems in this country are not only concerned with 'punishment' of law-breakers; Other goals include retribution, deterrence, rehabilitation, and incapacitation. The triers of fact [in each criminal case] should be the ones to determine who is a sex-offender [if this label is to be applied to anyone, that is], and should be the ones to determine the requirements of that particular sex-offender's registration and length of registration [if registration is to be required]. The current sex-offender registration scheme improperly removes this part of criminal case outcome determination from the judicial branch of government. Sex offender laws violate the 'separation of powers' doctrine & improperly bypass the judge's role, and fact-finders' role, in criminal cases and in sentencings. The government's sex-offender-registration 'scheme' essentially gives 'lifetime probation' for even minor offenses, without enough judicial oversight or judicial input. It is emphatically the province and duty of the Judicial Department [the judicial branch] to say what the law is. Those whoapply the rule to particular cases must, of necessity, expound and interpret that rule. If two laws conflict with each other, the Courts

must decide on the operation of each. 5 U.S. (1 Cranch) at 177. ***Marbury v. Madison***, 5 U.S. 137 [1803]

There are at least three Supreme Court cases about sex-offenders. One originated from Connecticut, one from Alaska, one from Kansas. None of them are especially relevant to the issues on appeal here. The one from Connecticut, ***Smith v. Doe,*** 538 U.S. 84 (2003), is often incorrectly cited to support the proposition that 'sex-offender registration is not punishment'. But that is not what that case says; That case says that it is not INTENDED as punishment.

SUICIDES

Oppressive sex-offender laws are not only the driving-force behind a continuing wave of abortions, they are also the driving-force behind a continuing slew of teen suicides.

Recently, a teenage boy in Ohio jumped to his death from a high parking garage, shortly after he was confronted by law enforcement for having made an audiotape of sex with an under-age gal [Corey Walgren, Naperville, IL, 01/11/17]. Another teen had done some streaking at a football game; When he realized he'd have to register as a sex-offender for that, he took his life [Christin Adamek, Alabama, 10/11/13]. [Politicians too, including, recently, Brandon Hixon of Idaho, and Dan Johnson of Kentucky].

News stories confirm that the teen suicide-rate in the USA has doubled in recent years; Most likely, oppressive sex-offender laws have something to do with that increase in suicides. According to the 11/02/13 Albuquerque Journal

"... For people ages 10-14, there has been an alarming 128-percent increase in suicides since 1980, making it the third-leading cause of death for that age group. In New Mexico, suicide is ranked as the second leading cause of death for youth aged 15-24. Each day in the U.S., there are more than 5,400 suicide attempts by young people in grades 7-12...."

REASONS FOR GRANTING THE PETITION:

It has not yet been decided by the Supreme Court whether or not sex-offender restrictions and obligations can, as a matter of law, constitute cruel and unusual punishment.

The 8th Circuit followed a line of cases that misinterprets a Supreme Court case, , ***Smith v. Doe,*** 538 U.S. 84 (2003), The Supreme Court there had decided that sex-offender laws were not INTENDED as punishment. There is a line of cases misinterpreting that decision, stating that sex-offender laws are, thus, per se not punishment. The District Court judge had dismissed my lawsuit,

without granting leave to amend, because he believed that sex-offender restrictions could not, as a matter of law, be 'cruel and unusual punishment'. [He figured that if something is not 'punishment', it follows that it cannot be 'cruel and unusual punishment']. The 10th Circuit is also struggling with this same issue now [the State of Colorado, in a different case, has filed an appeal from a decision favorable to sex-offenders there].

Even though Congress has the right to define federal crimes, and the right to prescribe punishments for each such crime, there are still some common sense, substantive-due-process limits on what Congress can do. 'Lifetime probation' for offering a kiss to a fifteen-year-old, simply goes too far. Even ten or fifteen years of sex-offender-registration obligations, akin to probation, goes too far; This is especially true in a state such as California, where a fifteen-year-old can marry. And where are the federal laws protecting sex-offenders from ridiculous State laws, from ridiculous local laws?

Also, the 8th Circuit has decided an important federal question in a way that conflicts with relevant decisions of this Court. To wit:

In this Aames case, by following cases that misinterpreted *Smith v. Doe*, 538 U.S. 84 (2003), the lower courts here ignored the requirement for 'proportionality' between the crime and the

punishment, as called for by the majority in the case of Kennedy vs Louisiana, 554 U.S. 407, 128 S.Ct. 2641, 171 L.Ed.2d 525 (2008).

CONCLUSION:

For the above-stated reasons, Petitioner humbly requests that certiorari be granted.

What's 'The-Other-Freedom-of-Choice'? [every 'coin' has two sides]. Women and 'liberals' often march in the streets agitating in favor of 'freedom-of-choice'; What they usually refer to is the 'freedom' for women and teenagers to terminate the lives of the unborn babies within their wombs, or within other peoples' wombs. But there is another freedom-of-choice, a second freedom-of-choice, that people very rarely talk about; That is the freedom for sexually-mature [past-puberty] legally-underage teenagers to choose to engage in sexual relations, and create babies, if they want to do so.

The case Roe vs. Wade, 410 U.S. 113, stated that the right-to-privacy under the Due Process Clause of the 14th Amendment allows females the right to participate in the killing of helpless fetuses. That privacy-right apparently applies not only to grown women, but also to teenagers Planned Parenthood v. Danforth, 428 U.S. 52 (1976); Since the time

that the case of Roe vs. Wade was decided, tens of millions of 'underage' American gals have had abortions, and hordes of them continue to do so.

The American [federal, state, and local] sex-offender-registration laws interfere with teenagers' rights to reproductive privacy, interfere with teenagers' rights to reproduce, interfere with that second kind of freedom-of-choice. This issue was not thoroughly briefed below, but the Supreme Court can raise it sua sponte, if it wants to. Therefore the same 'right-to-privacy' discussed in Roe vs. Wade can also be used to defend the right of 'underage' persons to reproduce if they choose to do so; It can be used to strike down (oppressive) sex-offender-registration laws that interfere with that right.

In sum: Any teenage gal who has the legal right to kill a fetus, should also have the legal right to make a fetus, if she so chooses ... and her boyfriend or suitor, if any, shouldn't be faced with the 'lifetime probation' of sex-offender-registration, in connection with that right.

It is exceptionally important that the USA establishes and maintains a higher birth rate. The sex-offender laws have been exerting a chilling effect on the normal, amorous relations of young people, and have been driving down American birth rates. Any group of people that fails to maintain an adequately-high birth rate is doomed to extinction [over time]. Importing foreigners does not stop the extinction of the original group of people... it simply replaces them, and replaces their descendants, with the descendants of foreigners.

Here is a recent headline [dated 11/30/2017] from the Daily Beast: "The Fertility Rate Is Way Down, and Yes, That's a Huge Problem"

We need to be realists. It is not 'repugnant' for Americans to want their descendants, their progeny, to be able to survive and prosper. This desire does not make us 'racists'. Every year we spend billions of dollars on'defense'. . . . . .for what, if not for that purpose? With our current low birth-rates, our high suicide rates, our high overdose rates, and our high abortion rates, our outlook for continuing survival becomes quite tenuous.

The sex-offender registration laws only exacerbate the above problems.

While we're busy, here, conducting a 'Nazi witch hunt' against men and boys who flirt with, and interact with, teenage gals, ... south of the border, tens of millions of teenage gals are making babies every year.

Remember, only the strong survive. The time has come for us to put aside our modern-day, mushy, political-correctness-style thinking, and wake up to the smell of refried beans and tamales. Remember, extinction is forever.

UNRESOLVED CASE QUESTIONS BEST LEFT FOR LOWER COURTS ON REMAND:

1. Under the federal 'notice-pleading' approach, does this sex-offender's complaint for declaratory relief give adequate notice of viable causes-of-action for violations of his constitutional rights? (Rights that are [allegedly] violated due to his continuing, multiple-government-imposed, Byzantine, burdensome and confusing, legal-obligations and legal-restrictions as a 'registered sex offender').

2. Should the lower courts have specifically given plaintiff a period of time, and 'leave', to amend his federal complaint? What is the legal effect of their failing to do so? Is leave to amend presumed allowable? Presumed disallowed? If presumed allowed, how much time is presumed?

3. What is the legal effect of a situation where a district judge apparently intended to dismiss the State of Missouri, but did not actually do so? Instead, the Federal Court case-file was apparently 'closed', with no resolution of plaintiff's claims against the State. The State of Missouri recognizes [page eight of its brief] that "the District Court did not rule on the State's motion to dismiss...."

4. Are sex-offender registration laws, along with other legal restrictions placed upon sex-offenders,

against public policy? Do they produce a chilling-effect on the normal amorous relations of young people, and encourage young women to abort their babies to keep their boyfriends off the hated sex-offender lists? Are they bringing down birth-rates to dangerously-low and unprecedented levels here in the USA? [In other words: are we Americans bringing about our own destruction and our own self-extinction by means of stupid, Orwellian, self-defeating, self-annihilating laws?].

5. Is the separation-of-powers issue 'res judicata', or already waived by failing to argue earlier? That is normally something raised at time of initial criminal trial for a sex offense. However, here, where the Feds, the State of Missouri, and Jackson County continue to blindly insist on Aames' continuing registration duty, almost a decade after his conviction, are their acts a continuing violation of the separation-of-powers clauses set forth in the Constitution of the United States? See again, Marbury v. Madison, 5 U.S. 137 [1803], 5 U.S. (1 Cranch) at 177.

Andrew B. Aames

Signed: Andrew B. Aames
01/10/18

Andrew B. Aames, In Pro Se