

In the Supreme Court
of the United States

No. 17-6680

William M. Eaton

v.

United States of America

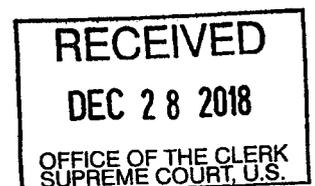
Motion to Supplement Under Rule 15

Comes now pro se Petitioner, William Eaton, supplementing his petition for Certiorari under Supreme Court Rule 15(8), bringing to this Court's attention new matters speaking in favor of granting certiorari. All of the following relate to the questions of the legality of supervised release and registration as a sex offender.

The Legality of Supervised Release

Recently, this Court granted Certiorari in United States v Haymond, No. 17-1692, as the 10th Circuit found 18 U.S.C. §3583(k) unconstitutional. That Circuit found that the subjecting of sex offenders to a five-year mandatory minimum if they committed a new sex offense while on supervised release essentially punished an offender twice for the new offense, creating double jeopardy problems. Worse, it allowed an offender to be convicted of an offense without plea or jury trial-completely denying him due process, and subjecting him to a higher statutory range than allowed under United States v Booker, 543 US 220 (2005).

If section (k) is unconstitutional, it is likely unconstitutional in whole. The disproportionate and disparate treatment sex and porn offenders are subject to is not limited to the new statutory minimum. Offenders subject



to §3583(k) are treated differently at every step of the way. They are subject to lifetime supervised release, and the guidelines state that they are exempt from the presumption that, after 18 months, an offender with good behavior is to have their release terminated, United States v Whitehouse, 2016 U.S. Dist. LEXIS 99162 (ED Tenn, 2016). And, because Courts incorrectly treat a conviction for porn as proof of dangerousness, see United States v Rockwell, 2017 U.S. Dist. LEXIS 174446 (WD Wash, 2017), they are also given a plethora of pointless, liberty killing conditions.

Haymond thus only addresses a small part of the problem raised in this case. Many of the problems identified by the Haymond Court are still present without the new minimum. Supervised release still allows Courts to essentially convict releasees of new offenses without them admitting to it, in proforma proceedings by a preponderance of the evidence, with very few of the Constitutional protections afforded trials. This is still a denial of due process. It can still subject an average releasee to a sentence in excess of the statutory maximum violation of Booker.

Moreover, whether Haymond is ultimately determined to be correct, as to the fact that the penalties imposed in (k) cannot be attributed to the original conviction, it does not significantly change the double jeopardy analysis. All that this question answers is which of the two offenses an offender is being punished twice for. If the offender is not punished twice for the new offense, he must be, by necessity, be punished twice for the old one. The approach of Johnson v United States, 529 US 694, 700 (2000) avoids one constitutional problem, but it does so by creating another.

Granting Certiorari in Haymond shows that there are still significant questions about the constitutionality of release. If the limited question of Haymond is worthy of further review, the larger question here certainly is

as well.

The Legality of SORNA

In Simpson v Miller, 387 P.3d 1270 (Ariz, 2017) and State v Wein, 417 P.3d 787 (Ariz, 2018), the Supreme Court of Arizona rejected categorical exclusion of bail for sex offenders. That Court noted that, contrary to the statements in McKune v Lile, 536 US 24, 34 (2002), recidivism rates for sex offenders are not high as generally claimed. Thus, any infringement of constitutional rights requires an individual determination of an offender's danger to satisfy due process.

No doubt, the interest claimed by the Government is substantial. But most people forced to register fall outside the stated rationale. No attempt is made to assure that any individual needs to be regulated, and quite a few offenders obviously do not present any danger to society. The registry would fall under this logic, and the rights impacted by the registry are far more substantial than the right to bail.

The registry issue is no longer one just affecting sex offenders. Five states have enacted violent crime registries. Tennessee and Indiana have registries for methamphetamine crimes. Numerous states require drunk drivers to register. Other such enactments include domestic violence, crimes against children or animals, and career offender registries. Kevin Bliss, Increase in Crime Registries Nationwide Not a Benefit to Society, Criminal Legal News, Vol. 1, No. 13, p. 37 (December 2018).

With the proliferation in registries, the question takes on added importance. The relationship between ex-offenders and society has been radically altered. Now, society can essentially put anyone convicted of a crime on a registry, at any time, and give them conditional freedom for any period that they want, even life. This can be done years, or even decades, after the fact. This makes

this issue of great importance to explain where this power comes from and how far it reaches.

Conclusion

For these reasons, and those previously listed, Certiorari should be granted.

Respectfully submitted this 20th day
of December, 2018,

William M. Eaton

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Certificate of Service

I, William M. Eaton, do swear that on this date, December 20th, 2018, as required by Supreme Court Rule 29, I have served the enclosed MOTION TO SUPPLEMENT UNDER RULE 15 on each party to the above proceeding case or that party's counsel, and on every other person required to be served, by depositing an envelope containing said document in the United States Mail through the proper prison officials, first-class postage prepaid for delivery to the following: SOLICITOR GENERAL OF THE UNITED STATES, DEPARTMENT OF JUSTICE, 950 PENNSYLVANIA AVENUE, N.W., ROOM 5614, WASHINGTON, DC 20530-0001

I declare under penalty of perjury that the foregoing is true and correct.
Executed on December 20th, 2018.

William M. Eaton

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