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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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SMITH ET AL. *v.* DOE ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 01–729. Argued November 13, 2002—Decided March 5, 2003

Under the Alaska Sex Offender Registration Act (Act), any sex offender or child kidnaper incarcerated in the State must register with the Department of Corrections within 30 days before his release, providing his name, address, and other specified information. If the individual is at liberty, he must register with local law enforcement authorities within a working day of his conviction or of entering the State. If he was convicted of a single, nonaggravated sex crime, the offender must provide annual verification of the submitted information for 15 years. If he was convicted of an aggravated sex offense or of two or more sex offenses, he must register for life and verify the information quarterly. The offender's information is forwarded to the Department of Public Safety, which maintains a central registry of sex offenders. Some of the data, such as fingerprints, driver's license number, anticipated change of address, and whether the offender has had medical treatment afterwards is kept confidential. The offender's name, aliases, address, photograph, physical description, driver's license number, motor vehicle identification numbers, place of employment, date of birth, crime, date and place of conviction, length and conditions of sentence, and a statement as to whether the offender is in compliance with the Act's update requirements or cannot be located are, however, published on the Internet. Both the Act's registration and notification requirements are retroactive.

Respondents were convicted of aggravated sex offenses. Both were released from prison and completed rehabilitative programs for sex offenders. Although convicted before the Act's passage, respondents are covered by it. After the initial registration, they are required to submit quarterly verifications and notify the authorities of any changes. Both respondents, along with the wife of one of them, also a

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respondent here, brought this action under 42 U. S. C. §1983, seeking to declare the Act void as to them under, *inter alia*, the *Ex Post Facto* Clause, U. S. Const., Art. I, §10, cl. 1. The District Court granted petitioners summary judgment. The Ninth Circuit disagreed in relevant part, holding that, because its effects were punitive, the Act violates the *Ex Post Facto* Clause.

Held: Because the Alaska Sex Offender Registration Act is nonpunitive, its retroactive application does not violate the *Ex Post Facto* Clause. Pp. 4–18.

(a) The determinative question is whether the legislature meant to establish "civil proceedings." *Kansas* v. *Hendricks*, 521 U. S. 346, 361. If the intention was to impose punishment, that ends the inquiry. If, however, the intention was to enact a regulatory scheme that is civil and nonpunitive, the Court must further examine whether the statutory scheme is so punitive either in purpose or effect as to negate the State's intention to deem it civil. *E.g., ibid.* Because the Court ordinarily defers to the legislature's stated intent, *id.,* at 361, only the clearest proof will suffice to override that intent and transform what has been denominated a civil remedy into a criminal penalty. See, *e.g., ibid.* Pp. 4–5.

(b) The Alaska Legislature's intent was to create a civil, nonpunitive regime. The Court first considers the statute's text and structure, *Flemming* v. *Nestor*, 363 U. S. 603, 617, asking whether the legislature indicated either expressly or impliedly a preference for one label or the other, *Hudson* v. *United States,* 522 U. S. 93, 99. Here, the statutory text states the legislature's finding that sex offenders pose a high risk of reoffending, identifies protecting the public from sex offenders as the law's primary interest, and declares that release of certain information about sex offenders to public agencies and the public will assist in protecting the public safety. This Court has already determined that an imposition of restrictive measures on sex offenders adjudged to be dangerous is a legitimate nonpunitive governmental objective. *Hendricks,* 521 U. S., at 363. Here, as in *Hendricks*, nothing on the statute's face suggests that the legislature sought to create anything other than a civil scheme designed to protect the public from harm. *Id.*, at 361. The contrary conclusion is not required by the Alaska Constitution's inclusion of the need to protect the public as one of the purposes of criminal administration. Where a legislative restriction is an incident of the State's power to protect the public health and safety, it will be considered as evidencing an intent to exercise that regulatory power, and not a purpose to add to the punishment. *E.g., Flemming* v. *Nestor,* 363 U. S. 603, 616. Other formal attributes of a legislative enactment, such as the manner of its codification or the enforcement procedures it establishes, are proba-

tive of the legislature's intent, see, *e.g., Hendricks*, 521 U. S., at 361, but are open to debate in this case. The Act's notification provisions are codified in the State's Health, Safety, and Housing Code, confirming the conclusion that the statute was intended as a nonpunitive regulatory measure. Cf., *id.,* at 361. The fact that the Act's registration provisions are codified in the State's Code of Criminal Procedure is not dispositive, since a statute's location and labels do not by themselves transform a civil remedy into a criminal one. See *United States* v. *One Assortment of 89 Firearms,* 465 U. S. 354, 364–365, and n. 6. The Code of Criminal Procedure contains many other provisions that do not involve criminal punishment. The Court's conclusion is not altered by the fact that the Act's implementing procedural mechanisms require the trial court to inform the defendant of the Act's requirements and, if possible, the period of registration required. That conclusion is strengthened by the fact that, aside from the duty to register, the statute itself mandates no procedures. Instead, it vests the authority to promulgate implementing regulations with the Department of Public Safety, an agency charged with enforcing both criminal *and* civil regulatory laws. Also telling is the fact that the Act does not require the procedures adopted to contain any safeguards associated with the criminal process. By contemplating distinctly civil procedures, the legislature indicated clearly that it intended a civil, not a criminal, sanction. *United States* v. *Ursery,* 518 U. S. 267, 289. Pp. 5–9.

(c) Respondents cannot show, much less by the clearest proof, that the Act's effects negate Alaska's intention to establish a civil regulatory scheme. In analyzing the effects, the Court refers to the seven factors noted in *Kennedy* v. *Mendoza-Martinez*, 372 U. S. 144, 168–169, as a useful framework. First, the regulatory scheme, in its necessary operation, has not been regarded in the Nation's history and traditions as a punishment. The fact that sex offender registration and notification statutes are of fairly recent origin suggests that the Act was not meant as a punitive measure, or, at least, that it did not involve a traditional means of punishing. Respondents' argument that the Act, particularly its notification provisions, resembles shaming punishments of the colonial period is unpersuasive. In contrast to those punishments, the Act's stigma results not from public display for ridicule and shaming but from the dissemination of accurate information about a criminal record, most of which is already public. The fact that Alaska posts offender information on the Internet does not alter this conclusion. Second, the Act does not subject respondents to an affirmative disability or restraint. It imposes no physical restraint, and so does not resemble imprisonment, the paradigmatic affirmative disability or restraint. *Hudson,* 522 U. S., at 104. Moreover, its obli-

gations are less harsh than the sanctions of occupational debarment, which the Court has held to be nonpunitive. See, *e.g., ibid.* Contrary to the Ninth Circuit's assertion, the record contains no evidence that the Act has led to substantial occupational or housing disadvantages for former sex offenders that would not have otherwise occurred. Also unavailing is that court's assertion that the periodic update requirement imposed an affirmative disability. The Act, on its face, does not require these updates to be made in person. The holding that the registration system is parallel to probation or supervised release is rejected because, in contrast to probationers and supervised releasees, offenders subject to the Act are free to move where they wish and to live and work as other citizens, with no supervision. While registrants must inform the authorities after they change their facial features, borrow a car, or seek psychiatric treatment, they are not required to seek permission to do so. Third, the Act does not promote the traditional aims of punishment. That it might deter future crimes is not dispositive. See, *e.g., Hudson, supra*, at 105. Moreover, the Ninth Circuit erred in concluding that the Act's registration obligations were retributive. While the Act does differentiate between individuals convicted of aggravated or multiple offenses and those convicted of a single nonaggravated offense, these broad categories and the reporting requirement's corresponding length are reasonably related to the danger of recidivism, and this is consistent with the regulatory objective. Fourth, the Act has a rational connection to a legitimate nonpunitive purpose, public safety, which is advanced by alerting the public to the risk of sex offenders in their community. That the Act may not be narrowly drawn to accomplish the stated purpose is not dispositive, since such imprecision does not suggest that the Act's nonpunitive purpose is a "sham or mere pretext." *Hendricks, supra*, at 371 (KENNEDY, J., concurring). Fifth, the regulatory scheme is not excessive with respect to the Act's purpose. The State's determination to legislate with respect to convicted sex offenders as a class, rather than require individual determination of their dangerousness, does not render the Act punitive. See, *e.g., Hawker* v. *New York,* 170 U. S. 189, 197. *Hendricks, supra*, at 357–368, 364, distinguished. Moreover, the wide dissemination of offender information does not render the Act excessive, given the general mobility of the population. The question here is not whether the legislature has made the best choice possible to address the problem it seeks to remedy, but whether the regulatory means chosen are reasonable in light of the nonpunitive objective. The Act meets this standard. Finally, the two remaining *Mendoza-Martinez* factors—whether the regulation comes into play only on a finding of scienter and whether the behavior to which it applies is already a crime—are of little weight in

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this case. Pp. 9–19.

259 F. 3d 979, reversed and remanded.

KENNEDY, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, SCALIA, and THOMAS, JJ., joined. THOMAS, J., filed a concurring opinion. SOUTER, J., filed an opinion concurring in the judgment. STEVENS, J., filed a dissenting opinion. GINSBURG, J., filed a dissenting opinion, in which BREYER, J., joined.