STATE OF MAINE
SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

Law Court Docket No. Ken-24-482

STATE OF MAINE
Appellee

v.

DANIEL GANTNIER
Appellant

On Appeal from the Superior Court, Kennebec County
Docket No. KENCD-CR-2022-593

REPLY BRIEF OF APPELLANT DANIEL GANTNIER

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The State argues only that registration requirements under SORNA are not part of Mr. Gantnier's sentence because he was sentenced after July 30, 2004. For that reason alone, a Rule 35 motion would be inappropriate, and the ex post facto and double jeopardy clauses are not implicated, according to the State. But the State's position ignores that the sentencing court did impose SORNA requirements as part of Mr. Gantnier's sentence in this case.

The State agrees that "[t]he judgment and commitment indicated that the Defendant was required to register with SORNA for ten years." (Red Br. at 5.) Indeed, just after it orders Mr. Gantnier to 30 months' imprisonment and 4 years' probation, the judgment and commitment orders that he comply with SORNA for 10 years. (A. 29.) It provides:

> [X] IT IS ORDERED THAT THE DEFENDANT, HAVING BEEN CONVICTED OF AN OFFENSE THAT REQUIRES COMPLIANCE WITH THE SEX OFFENDER REGISTRATION AND NOTIFICATION ACT AS A [X] 10-YEAR REGISTRANT . . . MUST SATISFY ALL REQUIREMENTS IN THE SEX OFFENDER REGISTRATION & NOTIFICATION ACT.

(A. 29.)

Compare that to the 2024 judgment and commitment for Mr. Gantnier's failure to comply with SORNA that is the subject of this appeal. (A. 9-12.) That document contains no section for ordering compliance with SORNA

requirements. It also shows that when a defendant signs the judgment and commitment, they are acknowledging that they "understand the sentence imposed herein." (A. 11.) *See also State v. Garcia,* 2014 ME 150, ¶ 5, 106 A.3d 1137 ("The Judgment and Commitment recites that as part of the sentence, Garcia's right to operate a motor vehicle was suspended. Garcia's signature appears on the Judgment and Commitment, immediately after an acknowledgement, which is part of the form, that he understood the sentence.").

Mr. Gantnier's signature on the 2024 judgment and commitment shows that he understands the sentence that is imposed by the judgment and commitment. (A. 11.) Likewise, Mr. Gantnier also understood the sentence imposed by the judgment and commitment in 2007, including the part of the sentence ordering him to comply with SORNA requirements for 10 years.

Though the State tries to explain that in 2007 SORNA registration was no longer a part of sentencing, in doing so it references a "separate order" seven different times. (Red Br. at 7, 8, 9, 10, 11.) No separate order existed here. Mr. Gantnier's reasonable understanding of his sentence came from the judgment and commitment which imposed, as part of his sentence, that he comply with SORNA registration requirements for 10 years. It is simply unreasonable to conclude that Mr. Gantnier's understanding should have

instead come from a then-recent legislative amendment (merely replacing "as part of the sentence" language with "at the time the court imposes a sentence").[1]

Contrary to the State's contention, "a finding for the Defendant" here would not mean that this Court's prior precedent is "plainly wrong." (Red Br. at 13.) The appropriate question—correctly addressed in the *Doe v. Anderson* case and others—is whether SORNA registration was part of the sentencing. 2015 ME 3, ¶¶ 2-5, 108 A.3d 378. In this case, as explained above, SORNA registration was part of Mr. Gantnier's sentence. The State makes no other argument in response to the failure to file a Rule 35 motion or the violations of the ex post facto and double jeopardy clauses.

Mr. Gantnier understood that he was ordered to comply with SORNA registration requirements for 10 years, and he did so for that entire duration—from 2007 to 2017. Once Mr. Gantnier completed his sentence, he had a legitimate expectation of finality and a vested right to be free of that claim. As this Court recently held, once "a right to be free of [a] claim has vested . . . the claim cannot be revived." *Dupuis v. Roman Cath. Bishop of Portland*, 2025 ME 6, ¶ 56, -- A.3d --.

[1] *See* 17–A M.R.S. § 1152(2–C) (2004); P.L. 2003, ch. 771, § B–13 (effective July 30, 2004).

> It is certain that he who has satisfied a demand cannot have it revived against him, and he who has become released from a demand by the operation of the statute of limitations is equally protected. In both cases the demand is gone, and to restore it would be to create a new contract for the parties,—a thing quite beyond the power of legislation.

Id. ¶ 40 (quotation marks omitted). The State cannot—more than two years after the completion of Mr. Gantnier's registration obligations—attempt to revive the claim against him by altering a sentence he already served to impose new lifetime requirements.

CONCLUSION

For these reasons, and those set forth in Mr. Gantnier's appellate brief, the trial court's decision in this case was wrong. Although the sentencing court's 2007 judgment and commitment may have been wrong too, the only way to correct it would have been a Rule 35 motion; the State's attempt to do so now is unconstitutional.

Dated at Portland, Maine this 26th day of March, 2025

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CERTIFICATE OF SERVICE

I, Jeffrey T. Edwards, attorney for Appellant, Daniel Gantnier, certify that I will, upon notification of approval by the Court, email and mail copies of this brief to the attorney listed below:

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Dated: March 26, 2025

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