

## COA: Being required to register as a sex offender does not amount to punishment

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Kent Allen Lee, after being originally charged with second-degree criminal sexual conduct, pleaded no contest to third-degree child abuse as a second habitual offender. At his sentencing, the judge reserved for a later date whether the defendant should be required to register as a sex offender. One year later, the judge heard testimony on this issue and concluded that Lee would be required to register. In a remand from the Michigan Supreme Court directing the Court of Appeals to consider Lee's appeal of this requirement, the Court of Appeals affirmed, in *People v. Lee*, No. 283778 (published June 17, 2010), the decision to require him to register.

Registering as a sex offender is not punishment, the Court explained, but rather a remedial regulatory scheme in furtherance of a legitimate state interest, like a quarantine notice when the public is threatened by an infectious disease. Because it was not punishment, the fact-finding the judge conducted did not violate due process, so long as the court still had jurisdiction over the defendant, which it did because Lee had been sentenced to five years of probation. The Court of Appeals also rejected Lee's contention that the trial court's factual findings were insufficient to establish that his behavior "by its nature constitute[d] a sexual offense against a minor," as Michigan's Sex Offenders Registration Act requires.