

15-5238 NICHOLS V. UNITED STATES

DECISION BELOW: 775 F.3d 1225

LOWER COURT CASE NUMBER: 14-3041

QUESTION PRESENTED:

Two men lived on opposite sides of the Missouri River in the Kansas City Metropolitan area, one in Missouri within the Eighth Circuit, the other in Kansas within the Tenth Circuit. Both men were convicted of sex offenses before the enactment of the Sex Offender Registration and Notification Act ("SORNA"), but were required to register under SORNA. Both men traveled from their homes to the Kansas City International Airport, flew to the same foreign country to reside, and thereafter did not update their registrations in the jurisdictions they had left. On these facts, the Eighth Circuit ruled in *United States v. Lunsford*, 725 F.3d 859 (8th Cir. 2013), that the failure to update a registration does not violate SORNA. The Tenth Circuit came to the opposite conclusion in Petitioner's case, on the basis of its earlier decision in *United States v. Murphy*, 664 F.3d 798 (10th Cir. 2011).

This case presents the following questions:

- I. Whether 42 U.S.C. § 16913(a) requires a sex offender who resides in a foreign country to update his registration in the jurisdiction where he formerly resided, a question that divides the courts of appeals?
- II. Whether 42 U.S.C. § 16913(d) is an unconstitutional delegation of legislative authority to the Executive Branch because it grants the Attorney General unguided discretion to determine who to prosecute for violations of SORNA, a question that caused disagreement within the Tenth Circuit below?

LIMITED TO QUESTION 1 PRESENTED BY THE PETITION.

CERT. GRANTED 11/6/2015