

**Court of Criminal Appeals of Texas**  
**February 12, 2014**

***Reynolds v. State***

No. PD-1369-12

Case Summary written by Leonardo De La Garza, Staff Member.

MEYERS, J., delivered the opinion of the Court, in which KELLER, P.J., and KEASLER, HERVEY, COCHRAN, and ALCALA, JJ., joined.

Appellant was charged and convicted of failure to comply with sex-offender registration requirements in 2009. When Appellant served an initial five-year sentence for sexual assault from 1990–August 1995, he was originally not required to register as a sex offender. The Texas legislature enacted its first registration provision in 1991, requiring a person with a reportable conviction on or after September 1, 1991, to register. In 1997, the legislature designated the statute as Chapter 62 of the Code of Criminal Procedure, instituting retroactive application to individuals with convictions on or after 1970. Included in the Chapter, however, was an uncodified “savings clause” that restricted application to people under incarceration or supervision by the Texas Department of Criminal Justice on or after September 1, 1997.

Thus, the previous law applied to Appellant because he had completed his sentence in 1995, and therefore, he was not required to register. In 2005, the legislature reenacted and amended Chapter 62, including a repeal of the “savings clause”-containing article and a replacement provision stating that registration requirements applied to those with convictions occurring on or after September 1, 1970. The 2005 amendments also contained a transition clause, stating that the changes in law applied to persons subject to Chapter 62 for an offense committed or engaged in before, on, or after the effective date of the Act. Appellant contends the following: (1) the 2005 amendment registration requirements do not apply to him; and (2) applying the 2005 amendments against him violates the Texas constitutional prohibition against retroactive laws.

Issues: (1) Do the 2005 amendment registration requirements apply to Appellant? (2) Does the 2005 amendment as applied constitute an unconstitutional retroactive statute?

The court held that the sex-offender-registration requirements in Chapter 62 apply to Appellant because the “savings clause” that previously exempted him was deleted by the 2005 amendments, and Appellant’s retroactivity argument was not preserved for review. Regarding the first issue, the court conducted statutory interpretation to effectuate the collective intent of the legislators who enacted the legislation. In discerning a fair, objective meaning of the statute, the court noted that it needed only to look to the plain text. In doing so, the court found that the plain meaning of the 2005 amendments applied the registration requirements to those with a reportable conviction that occurred on or after September 1, 1970, which included the Appellant. There was no indication that the “savings clause” was retained and the 2005 amendments only applied to persons previously subjected to Chapter 62. Furthermore, the court cited *Ex Parte Harbin*, which concluded that the “savings clause” applied only to those who did not register between 1997 and 2005. Concerning the second issue, the court noted that as applied constitutional claims, which includes retroactivity, must be properly preserved at trial. Though Appellant argued that objecting to the registration statute’s applicability should suffice to preserve the issue of retroactivity, the court suggested that the issue must be raised explicitly and initially at trial and not on appellate review. Thus, the court affirmed the court of appeals.

PRICE, J., filed a dissenting opinion in which WOMACK, J., joined.

The dissent argued that the court should have reached the merits of the retroactivity issue and possibly remanded the issue to the court of appeals. Here, the court simply ignored its discretionary review capacity.