

**IN THE COURT OF APPEALS OF IOWA**

No. 1-184 / 09-1239  
Filed April 27, 2011

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**ERIC ALLEN STEPHENSON,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Polk County, Glenn E. Pille, Judge.

Eric Stephenson appeals his conviction for failure to comply with the Iowa Sex Offender Registry. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, David A. Adams, Assistant Appellate Defender, and Bryan P. O'Neill, Student Legal Intern, for appellant.

Thomas J. Miller, Attorney General, Chantelle Smith, Assistant Attorney General, John P. Sarcone, County Attorney, and Susan Cox, Assistant County Attorney, for appellee.

Considered by Sackett, C.J., Potterfield, J., and Huitink, S.J.\* Tabor, J., takes no part.

\*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2011).

**POTTERFIELD, J.****I. Background Facts and Proceedings**

On February 23, 2009, the State filed a trial information charging Eric Stephenson with failure to comply with the Iowa Sex Offender Registry. An amended trial information alleged Stephenson had failed to register from December 2, 2008, through January 27, 2009.

On April 22, 2009, Stephenson filed a motion to dismiss on the grounds that the sex offender registry law was a violation of his equal protection and due process rights. Stephenson's motion argued that depriving him of his liberty without "an individual focus as to [his] particularized facts and circumstances" deprived him of his constitutional rights. The motion to dismiss stated Stephenson held these beliefs in spite of two cases adverse to his position, *Wright v. Iowa Department of Corrections*, 747 N.W.2d 213 (Iowa 2008) and *State v. Seering*, 701 N.W.2d 655 (Iowa 2005). Stephenson did not request a hearing on his motion.

On May 27, 2009, the district court filed a ruling denying Stephenson's motion to dismiss without a hearing "based on the supreme court case rulings that are listed in" Stephenson's motion. On June 3, 2009, Stephenson signed a stipulation conceding he had previously been convicted of a crime that required him to register and was aware that he was required to register. His jury trial began that same day. Stephenson did not request reconsideration of the court's denial of his motion to dismiss, nor did he request a hearing on that issue. On June 4, 2009, a jury convicted Stephenson of failure to comply with the Iowa Sex Offender Registry. Stephenson was present in court during the trial and his

sentencing, which took place July 24, 2009. At no time did he request a hearing on his motion or reconsideration of the motion.

Stephenson now appeals from the district court's ruling on his motion to dismiss, arguing: (1) the court deprived him of his due process rights when it failed to provide him a hearing on his motion to dismiss, and (2) the court failed to give adequate judicial explanation in its order denying his motion to dismiss.<sup>1</sup>

## **II. Scope of Review**

Because Stephenson asserts constitutional violations, our review is *de novo*. *State v. Massengale*, 745 N.W.2d 499, 500 (Iowa 2008).

## **III. Merits**

Stephenson asserts the district court denied his due process rights when it denied his motion to dismiss without a hearing.

A person is entitled to procedural due process when state action threatens to deprive the person of a protected liberty or property interest. Accordingly, the first step in any procedural due process inquiry is to determine whether a protected liberty or property interest is involved. . . .

Once it is determined a protected interest is at issue, we weigh three factors to determine what process is due:

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement[s] would entail.

At the very least, procedural due process requires notice and opportunity to be heard in a proceeding that is adequate to safeguard the right for which the constitutional protection is invoked.

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<sup>1</sup> Stephenson does not challenge the substance of the district court's ruling.

*State v. Willard*, 756 N.W.2d 207, 214 (Iowa 2008) (internal quotations and citations omitted).

After considering the factors above, we determine the district court did not violate Stephenson's procedural due process rights in denying his motion to dismiss without a hearing. Stephenson recognized two Iowa Supreme Court cases adverse to his position and did not identify any law supporting his argument. He did not allege that his "particularized facts and circumstances" differed in any way from the facts and circumstances presented in the adverse case law, nor did he not allege the court's conclusions in *Seering* and *Wright* were incorrect. We determine a hearing on the matter would have added little, if any, value given the extremely low risk of an erroneous deprivation of Stephenson's liberty interest in this case. Further, we conclude conducting a hearing on this issue would have been a waste of "valuable judicial resources that the court can use for other matters requiring such a hearing." See *State v. Gonzalez*, 718 N.W.2d 304, 309 (Iowa 2006). We conclude the minimum protections necessary under due process were met by notice and trial. See *Seering*, 701 N.W.2d at 666. Furthermore, Stephenson had adequate opportunities to address the court to request a hearing on the issues, which he did not do.

We further conclude the district court provided adequate reasoning for denying Stephenson's motion to dismiss. The district court relied on two Iowa Supreme Court cases that fully analyzed claims similar to Stephenson's. Further, the district court's ruling allowed Stephenson to preserve his argument that the sex offender registry law violated his equal protection and due process

rights. We find the ruling was adequate to explain the district court's decision and preserve Stephenson's arguments.

**AFFIRMED.**