

United States Court of Appeals
For the Eighth Circuit

No. 25-1892

Jane Does, 1-11; Jane Doe, XII; John Does, 1-15; John Doe, XVI; J.G., by and through Next Friend Jane Doe I; C.C., by and through Next Friend Jane Doe II; K.P., by and through Next Friend Jane Doe X; S.P., by and through Next Friend Jane Doe X; S.C.L.R. I, by and through Next Friend John Doe I; S.C.L.R. II, by and through Next Friend John Doe I; S.C.L.R. III, by and through Next Friend John Doe I; C. C., by and through Next Friend John Doe VI; H.P.S., by and through Next Friend John Doe VIII; H. P. S., by and through Next Friend Jane Doe III; H.W.S, by and through Next Friend Jane Doe III; H. W. S., by and through Next Friend John Doe VIII

Plaintiffs - Appellants

v.

Eric Olson, Colonel, Superintendent, Missouri State Highway Patrol

Defendant

David A. Flannigan, Major, Commander, Missouri State Highway Patrol;
Christopher S. Jolly, Captain, Division Director of Missouri State Highway Patrol

Defendants - Appellees

Michael L. Parson, Governor, State of Missouri

Defendant

Michael A. Turner, Colonel, Superintendent, Missouri Highway Patrol, Substituted
for Party Eric T Olson per order in ME #230

Defendant - Appellee

Appeal from United States District Court
for the Western District of Missouri - Jefferson City

Submitted: April 14, 2026

Filed: October 5, 2026

Before GRUENDER, BENTON, and ERICKSON, Circuit Judges.

ERICKSON, Circuit Judge.

The plaintiffs commenced this action raising thirteen constitutional claims related to Missouri’s Sex Offender Registration Act (“Mo. SORA”), Mo. Rev. Stat. § 589.400 et seq. The sixteen Doe plaintiffs consist of persons who have been convicted of a crime requiring them to register as a sex offender under Mo. SORA (collectively, “the Does”) and their spouses and children (collectively, “family members”). The Does and their family members sued Missouri State Highway Patrol (“MSHP”) employees involved in implementing provisions of Mo. SORA (collectively, “the MSHP defendants”). The district court¹ denied some claims following a review of the merits and dismissed other claims because they did not state a plausible claim. The Does and family members appeal the adverse decisions relating to the denial of their Eighth Amendment, Ex Post Facto, First Amendment, Due Process, and Equal Protection claims. We affirm.

I. BACKGROUND

Congress began enacting laws requiring sex offenders to register with law enforcement after seven-year-old Megan Kanka was raped and murdered by a

¹The Honorable Beth Phillips, then Chief Judge, now United States District Judge for the Western District of Missouri.

neighbor who, unknown to Kanka's family, had prior convictions for sex offenses against children (termed "Megan's Law").² By 1996, every State had enacted a variation of Megan's Law.

Missouri's first version of Megan's Law became effective on January 1, 1995. Like the federal laws, the purposes of Missouri's sex offender registration laws are "to protect children from violence at the hands of sex offenders, and to respond to the known danger of recidivism among sex offenders." Doe v. Phillips, 194 S.W.3d 833, 839 (Mo. 2006) (en banc) (cleaned up). Since its initial enactment, the Missouri General Assembly has amended its version of Megan's Law (Mo. SORA) several times. The Does assert nearly 20,000 individuals are on Missouri's sex offender registry, making it the fourth largest registry in the country.

Mo. SORA requires individuals convicted of specified offenses to register in person with the chief law enforcement official in the county or city where they reside "within three business days of adjudication, release from incarceration, or placement upon probation." Mo. Rev. Stat. § 589.400.2. Registration requirements direct the individual to provide a written statement containing their name, address, date of birth, social security number, phone number, any online identifiers, license plate number(s) and vehicles description(s), employment details, school enrollments, a description of the offense requiring registration, and whether they completed Missouri's sexual offender program. Id. § 589.407.1(1). Registrants must also provide their fingerprints, a current photograph, and a DNA sample (if not already provided). Id. § 589.407.1(2)-(4). Registrants are to provide the required information on a form developed by the MSHP or another format approved by the MSHP. Id. § 589.407.1

²Congress has since enacted a more comprehensive system for sex offender registration and community notification, enacting the "Jacob Wetterling, Megan Nicole Kanka, and Pam Lychner Sex Offender Registration and Notification Program." 34 U.S.C. § 20902 et seq.

After the form is completed, local law enforcement officials forward the information to the MSHP where it is then entered into the Missouri Uniform Law Enforcement System (“MULES”). Id. § 589.410. MULES is available to members of the criminal justice system and other entities as provided by law. Id. The MSHP maintains a public registry of sex offenders, which contains some, but not all, of the information required to be reported. Id. § 43.650.2. Mo. SORA authorizes the operation by local law enforcement of a similar searchable public website and/or publication of certain specified information in the local newspaper. Id. § 589.402.

The Does challenge Mo. SORA’s current scheme, which categorizes sex offenders into tiers based on the statute of conviction for their underlying registerable offense. Id. § 589.414.5-.7. No individualized risk assessment is undertaken. The different tiers set forth the length of time individuals must remain on the registry³ and the frequency in which they must report in person to the chief law enforcement official to verify their information—Tier I offenders remain on the registry for 15 years and must report annually; Tier II offenders for 25 years and must report semiannually; and Tier III offenders stay on the registry for life and report every 90 days. Id. §§ 589.400.4 & 589.414.5-.7

After registering their information, subject to limited exceptions, registrants must report changes within three business days. Id. § 589.414.1-.2. Some, but not all, changes must be reported in person. Id. The statute also requires that changes to or use of a new online identifier be reported to the chief law enforcement officer before the registrant can use the new identifier. Id. § 589.414.9. “Online identifier” is defined under Missouri law as an “electronic mail address and instant message screen name, user ID, cell phone number or wireless communication device number or identifier, chat or other internet communication name, or other identity information.” Id. § 43.651.1(4).

³After a specified time period, Tier I and II offenders can petition a court to have their name removed early from the registry. Id. § 589.401.1 & .4.

The Does contend Mo. SORA infringes on their constitutional rights by imposing unnecessary burdens and by placing unreasonable restraints on them, which also causes traceable injury and harm to their family members. The district court resolved all claims in three sequential orders—an order on the MSHP defendants’ motion for judgment on the pleadings, an order on the parties’ cross-summary judgment motions, and an order/final judgment following a two-day bench trial. The district court dismissed the family members’ claims because they are not required to register or take any action under Mo. SORA. The court also declined to consider the effects of Mo. SORA on the family members, finding their situation and experiences are irrelevant to the issue of whether Mo. SORA is “punishment” within the meaning of the Eighth Amendment or the Ex Post Facto Clause.

As to the Does’ claims, the district court concluded their Eighth Amendment and Ex Post Facto claims were not cognizable because Mo. SORA is not punitive. With regard to the Does’ void-for-vagueness challenge to registering their online identifiers, the court found the phrase “other identity information” is not unconstitutionally vague because the MSHP form expressly lists the information that must be furnished. The court also found the Does failed to adequately plead a cognizable due process or equal protection claim. Lastly, after finding the prohibition on use of online identifiers before they are registered with law enforcement is an unconstitutional prior restraint on speech in violation of the First Amendment, the parties accepted the court’s proposed remedy to order modification of the MSHP form to remove that requirement.

On appeal, the Does assert the district court erred in the following ways: (1) when it found Mo. SORA is not punitive and denied their Eighth Amendment and Ex Post Facto Clause claims; (2) when it did not accept their assertions as true and applied the wrong standard to their due process and equal protection claims; (3) when it found their First Amendment overbreadth claim was inadequately pled and refused to consider it; (4) when it rejected their claim that the provision of Mo. SORA requiring reporting of online identifiers is unconstitutionally vague; and (5) when it “*sua sponte*” dismissed the family members’ claims. Having carefully

considered each of their claims, we find no error in the district court's determinations.

II. DISCUSSION

The Does and their family members have asserted a variety of constitutional claims implicating the First Amendment, the Eighth Amendment, the Ex Post Facto Clause, and the Fourteenth Amendment. For relief, they seek a declaration that Mo. SORA is unconstitutional as well as an order enjoining enforcement and removing their names from Missouri's sex offender registry. In attempting to sort through the numerous claims, the district court noted in its final order that there had been "significant discussion" as to whether the Does are asserting facial challenges to Mo. SORA, as-applied challenges, or both. The MSHP defendants reiterated the confusion and blending of issues in their brief to this Court, contending that even at this stage of the litigation, the Does have not clearly indicated which arguments relate to which counts and what issues on appeal relate to an as-applied challenge, a facial challenge, or both. The Does responded by stating in a footnote that they are asserting both as-applied and facial challenges but offer no clarifying explanation, contending instead that the label used by a litigant is not what matters, it "is the remedy that is employed by the Court" that matters. As mystifying as this contention is, we need not resolve the imprecision and confusion because the Does have failed to establish Mo. SORA violates any of their asserted constitutional rights, either in its general application or in any of their particular circumstances.

1. Family Members' Claims

The Does assert that from the beginning of the litigation, they alleged Mo. SORA violates not only the constitutional rights of registered sex offenders, but the constitutional rights of immediate family members as well. The Does claim the

district court improperly dismissed the family members' claims *sua sponte*.⁴ Because so many of the Does' arguments rely on impacts on their families, we consider this issue first.

In their complaint, the Does allege harms related to family members never named as a party in this action. As to those that are named, the overriding harms include loss of friendships, social ostracism, and fear about community reprisals. In particular, the children allege they were "shunned" by other families and neighbors due to their parent's status on the sex offender registry, they were harassed by fellow students, they were "robbed of a better education" because schools refused to allow registered sex offenders on school property, and they missed out on having their mom or dad attend their activities. One spouse alleges she lost a job opportunity after the employer discovered she lived at the same address as a registered sex offender and another spouse alleges she suffers extreme stress from dealing with their children's activities and tasks alone.

The record does not support the Does' claim that the district court *sua sponte* and without explanation dismissed the family members' claims. During the proceedings, the district court noted that most of the evidence from family members focused on location restrictions for registered sex offenders, which is not governed by any provision in Mo. SORA. The court found that the impact registration has on family members is irrelevant because the analysis must focus on the person directly affected by Mo. SORA. And since Mo. SORA has no provisions directed at family members of sex offenders, the court further explained that incidental effects on family members are immaterial to the constitutional issues before the court. The court further highlighted that the Does had not cited any authority suggesting the effects on a registered sex offender's family is a factor to be considered when

⁴The family members also challenge the district court's exclusion of their evidence related to the punitive impact of Mo. SORA on them. This issue has been rendered immaterial by our disposition of their Eighth Amendment claim on the second prong—the Does' failure to show the statute is barbaric or grossly disproportionate.

analyzing the constitutionality of Mo. SORA. For these reasons, the district court declined to consider the family members' allegations or evidence and formally dismissed their claims in its final post-trial order.

In their brief to this Court, the Does do not cite a case supporting their theory that family members who are incidentally affected by Mo. SORA have a plausible constitutional claim. Nor did they articulate any flaws in the district court's findings or conclusions. Instead, they assert that due process provides for the right to be heard, and dismissal of the family members' claims was inappropriate because it is not patently obvious from the complaint or the record below that the family members could not prevail on a constitutional claim. The Does have not pointed us to any controlling or persuasive legal authority supporting their claims or articulated any specific error in the district court's analysis. The district court did not err when it dismissed the family members' claims.

2. Eighth Amendment Claim

After holding a bench trial, the district court granted judgment in favor of the MSHP defendants on the Does' Eighth Amendment claim. The court determined that Mo. SORA is not "punishment," that the Does failed to allege in their complaint the statute is barbaric, and that none of the evidence presented at trial persuaded the court that Mo. SORA is sufficiently disproportionate. We review the district court's factual findings for clear error and its legal conclusions *de novo*. Johnson v. Hutchinson, 44 F.4th 1116, 1118 (8th Cir. 2022).

The Eighth Amendment prohibits excessive bail, excessive fines, and cruel and unusual punishments. U.S. Const. amend. VIII. For a punishment to qualify as "cruel and unusual," it must be "barbaric or grossly disproportionate" to the offense committed. See Graham v. Florida, 560 U.S. 48, 59 (2010); Doe v. Miller, 405 F.3d 700, 723 n.6 (8th Cir. 2005). The first three issues in the Does' statement of issues concern whether Mo. SORA is punitive as the term is understood under the Eighth Amendment. We do not believe that Mo. SORA is punitive when considered in such

a light.⁵ But to violate the constitution, the Does must show both that the law is punitive and that it is “cruel and unusual” within the meaning of Eighth Amendment. At this point, the Does’ Eighth Amendment claim necessarily fails.

The Supreme Court has identified two categories of punishment that meet the Eighth Amendment’s “cruel and unusual” standard, which are: (1) “modes or acts of punishment” considered cruel and unusual at the time the Bill of Rights was adopted, Ford v. Wainwright, 477 U.S. 399, 405 (1986); and (2) modes of punishment which are inconsistent with modern “standards of decency,” as demonstrated by “objective evidence of how our society views a particular punishment today,” with the “clearest and most reliable” evidence being legislation, Penry v. Lynaugh, 492 U.S. 302, 330-31 (1989).

The Eighth Amendment specifically provides: “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.” This language is virtually identical to the language found in the English Bill of Rights of 1689 and the Virginia Declaration of Rights of 1776.⁶ Similar clauses were found in the constitutions of eight states and the Northwest Ordinance of 1791. By the time the Eighth Amendment became operative, it was broadly understood that the cruel and unusual punishment clause was directed at certain methods of punishment. Anthony Granucci, “Nor Cruel and Unusual Punishments Inflicted:

⁵The analysis of whether or not a legislative act is punitive requires the consideration of the non-exhaustive factors set forth in Kennedy v. Mendoza-Martinez, 372 U.S. 144, 168-169 (1963). Miller, 405 F.3d at 719 (citing Smith v. Doe, 538 U.S. 84, 97 (2003)). We believe, consistent with the Missouri Supreme Court’s decision in Doe v. Olson, 696 S.W. 3d 320, 330 (Mo. 2024) (en banc), reh’g denied (Oct. 1, 2024), that such analysis yields a conclusion that Mo. SORA is not punitive but a further elucidation of that analysis is unnecessary given our conclusion that the Does cannot show punishment that is “cruel and unusual” within the meaning of the Eighth Amendment.

⁶Both the English Bill of Rights of 1689 and the Virginia Declaration of Rights of 1776 provide, in relevant part: “That excessive bail ought not be required, nor excessive fines imposed nor cruel and unusual punishments inflicted.”

The Original Meaning". As the Supreme Court has indicated, the framers understood that "the deliberate infliction of pain for the sake of pain" is a common aspect of punishments found to be constitutionally forbidden. Baze v. Rees, 553 U.S. 35, 48 (2008). Examples include "torture or a lingering death." Id. The Does have not identified any conduct by the MSHP defendants beyond the mere assembling and publishing of information, as required in Mo. SORA.

Whether this is even a "method of punishment" as contemplated by the framers of the constitution is a debatable proposition, but it is certainly not a method that would have been deemed cruel and unusual as the term was understood by the framers. Until well into the 19th century, criminal sentences could involve: confinement at hard labor under conditions that would be deeply offensive to modern sensibilities; corporal punishment including flogging, caning and branding, public execution; and in some states, transportation as part of a chain gang to work on public works or rented as slave labor for private interests at public profit.

Faced with this reality, the Does properly focus on the second, post-Weems category—that Mo. SORA is inconsistent with modern standards of decency. While they emphasize societal and technological changes since the Supreme Court decided Smith, 538 U.S. 84, they made no allegation or assertion similar to the level of harm courts have determined to be constitutionally forbidden. They claim Mo. SORA is "barbaric and torturous" because: (1) it effectively renders them and their families "lepers who are routinely harassed, discriminated against, and excluded from their respective communities[.]" and (2) it essentially amounts to "branding" but without the physical defacement of a person's body. The Does have not explained how the law would have been considered cruel and unusual at the Founding or why it is inconsistent with modern standards of decency. Moreover, the Does have not convinced us that societal changes, such as broader access to the Internet and increased reliance on digital technology, have critically undermined or wholly upended precedent analyzing the parameters of "cruel and unusual" punishments. Even if Missouri's sex offender registration scheme was construed to be punitive,

which we need not decide, the Does have failed to show Mo. SORA is barbaric within the meaning of the Eighth Amendment.

Cruel and unusual punishment can also be shown under a “narrow proportionality principle.” Ewing v. California, 538 U.S. 11, 20 (2003) (quoting Harmelin v. Michigan, 501 U.S. 957, 996-97 (1991) (Kennedy, J., concurring in part and concurring in the judgment)). This principle is narrow because a state’s policy choices and sentencing rationales are generally left to state legislatures, not federal courts. Id. at 25. In other words, federal courts reviewing a state’s sentencing scheme “do not sit as a ‘superlegislature’ to second-guess [the state’s] policy choices.” Id. at 28. “It is exceedingly rare for an offense that does not have a capital sentence to violate the Eighth Amendment.” United States v. Scott, 831 F.3d 1027, 1034 (8th Cir. 2016) (quoting United States v. Wiest, 596 F.3d 906, 911 (8th Cir. 2010)).

The Does assert two reasons that Mo. SORA is grossly disproportionate: (1) the scheme places offenders in one of three tiers based on the nature of their underlying conviction without accounting for the “actual seriousness” of the offense or the offender’s actual dangerousness; and (2) Missouri has no similar registration system for other crimes. The district court determined the evidence presented did not demonstrate Mo. SORA is sufficiently disproportionate. We agree.

Statutory schemes involving offense-based assignment of sex offenders to tiers have withstood a myriad of constitutional challenges in state and federal courts. See, e.g., Doe v. Settle, 24 F.4th 932, 936 (4th Cir. 2022); Does I-7 v. Abbott, 945 F.3d 307, 315 (5th Cir. 2019); People v. Kardasz, -- N.W.3d --, 2025 WL 3691966, *1 (Mich. 2025) (en banc); State v. McSwain, 914 S.E.2d 124, 129-30 (S.C. 2025); State v. Blankenship, 48 N.E.3d 516, 518 (Ohio 2015); Helman v. State, 784 A.2d 1058, 1064 (Del. 2001). When considering whether to adopt a categorical rule prohibiting a particular practice, the Supreme Court has described a two-step process: the first step involves looking at objective indicia of society’s standards, as expressed in legislative enactments and state practice, to determine if a national

consensus against the challenged sentencing practice exists, and the second step entails the court's exercise of its own independent judgment to determine whether the punishment violates the Constitution under the standards set forth in controlling precedents and the court's own understanding and interpretation of the Eighth Amendment's text, history, meaning, and purpose. Graham, 560 U.S. at 61 (quotations and citations omitted).

The Does cannot satisfy either step in the process. They have not shown the existence of a national consensus against sex offender registration and notification schemes like the one at issue here or even any likelihood that such a trend may emerge. Nor have they convinced us that we should exercise our judgment and find Mo. SORA violates the Eighth Amendment.

Like its federal counterpart, Mo. SORA groups sex offenders into tiers based on their underlying offense, with lengthier registration requirements for higher tiers. Compare 34 U.S.C. §§ 20911, 20915, with Mo. Rev. Stat. § 589.414.5-.7. When originally enacted, Mo. SORA imposed a lifetime registration obligation, with limited exceptions. Dixon v. Mo. State Highway Patrol, 583 S.W.3d 521, 525 (Mo. Ct. App. 2019). In 2018, the statute was amended to create three tiers, with Tier III encompassing the most severe offenses and subjecting offenders to a lifetime registration requirement. Id. According to Missouri courts that have studied the scheme, Tier I contains 15 of the least serious offenses, Tier II covers 13 offenses and certain repeat offenders, and Tier III encompasses the 36 most severe offenses. See, e.g., Hixson v. Mo. State Highway Patrol, 611 S.W.3d 923, 925-26 (Mo. Ct. App. 2020). By way of examples, Tier I offenses include first-degree sexual abuse of a person who is at least 18 years old, trafficking for the purpose of sexual exploitation of a person who is at least 18 years old, and possession of child pornography. In contrast, Tier III offenses include first- and second-degree rape, first- and second-degree sexual trafficking of a child, and promoting the prostitution of a person under age 18. Each tier consists of offenders that Missouri's General Assembly believed were similarly situated and should be treated similarly.

This level of identification of specific offenses and categorization indicates the legislators evaluated the gravity of each offense and placed it in the tier most appropriate to ensure public safety. The current scheme reduced the number of individuals initially subject to lifetime registration while continuing to advance the purposes of the statute—protecting children and responding to recidivism risks. These are the precise types of policy decisions the Missouri legislature is empowered to make. The failure to mandate individualized assessments for every offender is insufficient to show the scheme is grossly disproportionate since individual dangerousness or risk of recidivism would merely establish a fact that is not material under the statute. See Miller, 405 F.3d at 709 (quoting Conn. Dep’t of Pub. Safety v. Doe, 538 U.S. 1, 7 (2003)).

While the Does also claimed disproportionality due to the lack of a registration scheme for other serious non-sexual offenses,⁷ they failed to meaningfully develop this claim in their briefing. They did not present sufficient evidence to discredit the Missouri General Assembly’s view that registration requirements designed to notify law enforcement and to make publicly available accurate information about sex offenders furthers public safety interests. They did not articulate a basis that would warrant a federal court to intervene and act as a “superlegislature.” Fixing the consequences for crimes “involves a substantive penological judgment that, as a general matter, is properly within the province of legislatures, not courts.” Harmelin v. Michigan, 501 U.S. 957, 998 (1991) (Kennedy, J., concurring) (plurality opinion) (cleaned up). The Does’ mere assertion that Mo. SORA is grossly disproportionate because the Missouri General Assembly has not enacted a registration scheme for non-sexual offenses is insufficient to demonstrate a constitutional claim.

The district court did not err in denying the Does’ Eighth Amendment claim, as they have failed to show, in general or in a plaintiff’s particular circumstance, Mo. SORA is barbaric or grossly disproportionate.

⁷The Does acknowledge in their complaint that Missouri lawmakers are currently proposing a registration scheme for homicide offenses, although they believe it is expected to be less onerous and burdensome than Mo. SORA.

3. Ex Post Facto Clause Claim

The viability of the Does' Ex Post Facto clause claim is called into serious question in light of the interaction of Smith, 538 U.S. at 105-106, and the Missouri Supreme Court's decision in Olson, 696 S.W. 3d at 330 (Mo. 2024). Both the Missouri and United States Constitutions prohibit ex post facto laws. Whether the question is analyzed under either, the result is the same. In Olson, the Missouri Supreme Court analyzed Mo. SORA applying the non-exhaustive Mendoza-Martinez, 372 U.S. at 168-69, factors that were described in Smith, 538 U.S. at 97, as the most relevant. These include whether the regulatory scheme: (1) has been regarded in our history and traditions as a form of punishment; (2) imposes an affirmative disability or restraint; (3) promotes the traditional aims of punishment; (4) has a rational connection to a nonpunitive purpose; or (5) is excessive with respect to the purpose.

We have carefully reviewed the analysis performed by the Missouri Supreme Court as it applies to Mo. SORA and find its analysis thorough and persuasive and adopt its reasoning as our own in concluding that the Does have not demonstrated that Mo. SORA violates the prohibition on ex post facto laws and that Mo. SORA is reasonable in light of its non-punitive objectives.

4. Due Process and Equal Protection Claims

The Does' complaint contains a total of seven separate counts alleging various due process and/or equal protection claims. Many of their claims overlap. The Does did not identify in their briefing the specific dismissed count(s) they are asking us to review. Count IV alleges both a violation of substantive due process and equal protection for Tier III offenders due to the lack of an individualized assessment. Counts V and VI allege a due process claim and an equal protection claim because Mo. SORA does not allow Tier III registrants to be removed from the registry. Counts VII and VIII allege substantive due process claims based on interference with familial relationships and employment. Count IX alleges a due process claim

directed at provisions pertaining to “exclusion zones,” which the district court determined the Does lacked standing to challenge. We need not sift through each of these claims in detail because the Does did not plausibly allege a cognizable substantive due process or equal protection claim under any of their theories.

The Does’ chief complaint regarding the dismissal of their claims is a general statement that the district court failed to accept their claims as true. We review *de novo* the grant of a motion for judgment on the pleadings. Mills v. City of Grand Forks, 614 F.3d 495, 497 (8th Cir. 2010). When considering if a claim has been adequately pled, a court considers the pleadings themselves, material embraced by the pleadings, exhibits attached to the pleadings, and matters of public record. Id. at 498.

A valid substantive due process claim requires a plaintiff to show a defendant deprived him of a right established under the Fourteenth Amendment. Id. Contrary to the Does’ argument, courts are not required to accept as a matter of course an asserted right because it is pled. The Supreme Court has admonished lower courts to consider carefully the description of the asserted right, as “[t]he doctrine of judicial self-restraint requires us to exercise the utmost care whenever we are asked to break any new ground in this field.” Miller, 405 F.3d at 710 (quoting Reno v. Flores, 507 U.S. 292, 302 (1993)). The rights asserted by the Does include a lack of a mechanism for individual review or removal from the registry for Tier III offenders and interference with familial relationships and employment. As noted by the district court, the Does failed to show how the classification scheme implicates a fundamental right. As to their familial relationships claim, it is premised largely on exclusions zones, which Mo. SORA does not address and are not at issue on appeal, and other incidental impacts that do not directly intrude on familial relationships. Similarly, the district court found that the Does, at most, showed incidental effects on employment, noting Mo. SORA contains no prohibitions on employment. The Does have not challenged on appeal any of the district court’s findings.

“The theory of substantive due process is properly reserved for truly egregious and extraordinary cases.” Mills, 614 F.3d at 498 (cleaned up). This means: “A plaintiff must establish the government action complained of is truly irrational, that is something more than arbitrary, capricious, or in violation of state law. Truly irrational conduct is conscience shocking, in a constitutional sense.” Id. (cleaned up). The Does have not identified for us any substantive error in the district court’s analysis, let alone any specific claim that they pled which is sufficient to satisfy the rigorous standards for a cognizable substantive due process violation. And, in our review of the complaint and the district court’s decision, we are unable to find one. The district court did not err when it dismissed the Does’ substantive due process claims.

Regarding the equal protection component of the Does’ claims, the district rejected their contention that individuals required to register pursuant to Mo. SORA are identical in all material respects. The court identified “significant” differences between Tier III registrants and registrants classified in Tiers I or II, including that Tier III registrants (1) have been convicted of sex crimes involving the use of force; (2) have committed sex crimes against children or vulnerable persons; (3) were deemed repeat, persistent, or predatory offenders; or (4) were required to register under another tier but have been convicted of failing to register. The Does have not challenged these findings that undermine their equal protection claim.

Further, this Court has explained: “A classification that neither implicates a fundamental right nor involves a suspect class of persons is constitutional if it is supported by a rational basis.” Doe, I v. Peterson, 43 F.4th 838, 842 (8th Cir. 2022). If the classification is rationally related to any conceivable, legitimate state purpose, a court must uphold it. Id. The Missouri Supreme Court has found Mo. SORA is rationally related to two legitimate state interests—the dissemination of information for public safety and the safety of children. Olson, 696 S.W.3d at 328.

The district court found rational basis review applies because the restrictions at issue do not involve a fundamental right or a protected class. On appeal, the Does

assert in a conclusory manner that, as they argued below, “a standard of review more stringent than rational basis review was warranted, which is apparent from the face of the Complaint itself.” They do not develop, explain, or articulate any specific error in the district court’s review of the record or analysis but instead broadly assert the district court should have credited their claims and accepted them as true. It is not our role to conduct a searching review of the record, research applicable case law, and craft arguments for a party. A party waives an issue by failing to “provide a meaningful explanation of the argument and citation to relevant authority in their opening brief.” Cox v. Mortg. Elec. Registration Sys., Inc., 685 F.3d 663, 674 (8th Cir. 2012).

In terms of the substance of their claim, the only case the Does point us to is the South Carolina Supreme Court’s decision in Powell v. Keel, 860 S.E.2d 344 (S.C. 2021), which involves a dissimilar sex offender registration scheme. When Powell was decided, South Carolina’s SORA, unlike Missouri’s scheme, imposed lifetime registration with biannual reporting for all sex offenders. S.C. Code Ann. § 23-3-460. The court upheld the constitutionality of the initial mandatory lifetime registration requirement but found a lifetime registration requirement for all registrants without any opportunity for judicial review to assess the risk of re-offending violated due process. 860 S.E.2d at 348.

The concerns identified in Powell are ameliorated when a legislature tailors the scheme so not all sex offenders are treated the same and required to register for life. Does v. Whitmer, 751 F. Supp. 3d 761, 810 (E.D. Mich. 2024). Notably, after Powell was decided, South Carolina’s legislature amended its SORA to create a three-tiered scheme setting forth registration duration and removal procedures. Following the amendment, the South Carolina Supreme Court expressly rejected a registrant’s substantive due process challenge to the tiered scheme. McSwain, 914 S.E.2d at 130.

The Does’ complaint does not show the existence of a classification system that is not rationally related to any conceivable, legitimate state purpose. Their

generalized assertions and conclusory arguments are insufficient to demonstrate the district court erred when it dismissed their substantive due process and equal protection claims.

5. Count XI – First Amendment Freedom of Speech & Association

Count XI of the Does' complaint is titled First Amendment Freedom of Speech & Association. They allege that Mo. SORA's requirement that registrants report in person within three days a new or changed online identifier burdens them and violates their rights to freedom of speech and association. They also allege Mo. SORA chills protected speech because registrants are reluctant to engage in online speech if they must report identifiers to law enforcement before use, which (a) requires them to take time off from work and be away from their families, and (b) causes fear due to reprisal and harassment from the general public. The Does also allege the requirement is not narrowly tailored because it targets all speech and applies to all individuals subject to Mo. SORA. On appeal, they acknowledge the term "overbroad," or any variation of the term, does not appear in Count XI of their complaint.

The district court, in its order addressing the MSHP defendants' motion for judgment on the pleadings, characterized its view of each of the Does' claims. As to Count XI, the court construed the complaint as alleging Mo. SORA "violates the First Amendment because it burdens and chills Plaintiffs' ability to engage in online speech." It also read Counts XII (anonymous speech) and XIII (prior restraint) to "appear to be largely subsumed within Count XI." Following its review of the claims, the court dismissed some claims and allowed others to proceed. It declined to dismiss Count XI at the pleading stage for two reasons: (1) the MSHP defendants failed to address/analyze the portions of Count XI not reflected in Counts XII and XIII, and (2) because the MSHP defendants were not entitled to judgment on the pleadings on Counts XII and XIII, there was no basis for dismissing Count XI at the pleading stage.

In the proceedings below, at no time did the Does contest or seek to correct a mischaracterization of their claims. When the Does sought summary judgment as to Counts XI, XII, and XIII (the First Amendment claims), they asserted Mo. SORA chills protected online speech because it deprives them of their right to anonymous speech and subjects registrants “to government and third-party surveillance” of all online speech. The Does claimed Mo. SORA was broad, invasive, and onerous in terms of the information required and the time allowed to provide it. The district court found there was no allegation in the complaint that would provide notice that the Does were alleging Mo. SORA is overbroad because it requires registrants to report too much information or it impairs registrants’ access to the Internet or related services. The Does did not dispute the district court’s findings below. They did not move for reconsideration or seek leave to amend their complaint, which would have given the district court the opportunity to review the arguments that the Does now make on appeal. Instead, the Does proceeded to trial and challenge for the first time on appeal the district court’s characterization of Count XI.

Further, the Does do not contest the overlapping nature of their claims and have not explained why this claim is different from the others. In its final order, the district court found that Count XI is a combination of other claims asserted elsewhere in the complaint and is “a redundant claim.” Specifically, the district court found that Count XI is dependent on the outcomes of Counts XII and XIII, as it essentially reiterates Counts XII and XIII and adds allegations about the burden involved in reporting new and changed online identifiers in person. Notably, the Does prevailed on their claim regarding the burden of reporting changes to their online identifiers prior to use but were unsuccessful in obtaining the relief they wanted. They wanted the provision requiring them to report online identifiers stricken entirely from the statute but agreed that removal of the time limitation listed on the registration form was an appropriate remedy.

A review of the record belies the Does’ claim that the district court refused to consider their claim. The district court considered the claim that they pled. We find

no error in the district court's examination or dismissal of their First Amendment claim pertaining to the reporting of online identifiers.

6. Vagueness Challenge to “Online Identifiers”

Count X alleges Mo. SORA is overly broad and vague because the definition of “online identifiers” includes the undefined clause “other identity information.”⁸ This claim proceeded to trial. After hearing and weighing the evidence, the district court concluded that the statute is not unconstitutionally vague because the form registrants must complete specifies the information that they are required to provide to law enforcement. The Does do not challenge this finding but instead argue the district court impermissibly considered MSHP's form when resolving their vagueness claim.

Individuals subject to Mo. SORA must register their “online identifiers” with local law enforcement, Mo. Rev. Stat. § 589.407.1(1), and a failure to report them is a crime. *Id.* at § 589.425.1. The Does argued below that the phrase “other identity information” within the definition of “online identifiers” violates due process because it does not put a person of ordinary intelligence on notice of what information must be reported. While the district court stated that this phrase may appear unclear in the abstract, the court reasoned that the Does' constitutional challenge lacked merit because the form registrants are required to complete is sufficient to give notice of the information that they must report to law enforcement. Because registrants do not have to guess as to what information is required to comply with the law, the district court determined that the reporting requirement for online

⁸The Does also allege the information that must be registered with law enforcement encompasses “an innumerable number of identifiers,” which can change constantly requiring “constant monitoring and reporting” to stay compliant with the law. This allegation does not relate to a vagueness challenge but appears to be in the nature of an undue burden claim that was never meaningfully developed below.

identifiers is not unconstitutionally vague. The Does contend the district court’s approach was in error because only the legislature can correct a vague statute.

Mo. SORA requires individuals to report to law enforcement any “online identifiers, as defined in section 43.651.” Mo. Rev. Stat. § 589.407.1(1). Online identifiers are not to be accessible in the offender’s public profile and “shall only be available to a member of the public by a search using the specific online identifier to determine if a match exists with a registered offender.” *Id.* at § 589.402.3(10). Section 43.651.1 lists four categories of information and provides examples of items encompassed in each category. Category (4) defines “Online identifier” as including: “electronic mail address and instant message screen name, user ID, cell phone number or wireless communication device number or identifier, chat or other internet communication name, or other identity information.” The only part of this definition that the Does challenge is the final clause—“other identity information.”

The Does did not refute the MSHP defendant’s contention that the interpretive principle of *ejusdem generis* provides a limiting construction that defeats their vagueness argument. When examining the reach of a general clause included in a provision listing other specific items or conduct, the Supreme Court has instructed courts “to look for guidance from whatever examples come before it.” *Fischer v. United States*, 603 U.S. 480, 487 (2024). This invokes consideration of two principles:

First, the canon of *noscitur a sociis* teaches that a word given more precise content by the neighboring words with which it is associated [which] avoids ascribing to one word a meaning so broad that it is inconsistent with the company it keeps. And under the related canon of *ejusdem generis*, a general or collective term at the end of a list of specific items is typically controlled by and defined by reference to the specific classes that precede it.

Id. (cleaned up).

Here, the clause “other identity information” is a general phrase that follows several specific types of online identifiers, such as email addresses, screen names, instant message screen names, cell phone numbers, chat names, etc. The specific examples listed share the common theme of names created to send or receive electronic messages, to share posts online, or to engage in other forms of electronic communication with others. The Does’ challenge to the definition improperly carves out one phrase and views it in isolation. The Does have not shown that the legislature’s failure to define “other identity information” renders the statute unconstitutionally vague.

The Does have also not shown that those required to register under Mo. SORA are left to guess about the “innumerable number of identifiers” that they must report to law enforcement. Mo. SORA imposes a statutory obligation on the MSHP to create an offender registration form. See Mo. Rev. Stat. § 589.407.1. In relevant part, the MSHP form requests that offenders provide the following identifiers:

E-MAIL / INTERNET / OTHER INFORMATION				
PRIMARY E-MAIL ADDRESS			EFFECTIVE DATE	END DATE
IID TYPE	INTERNET IDENTIFIER	CARRIER	EFFECTIVE DATE	END DATE
E-MAIL ADDRESS			EFFECTIVE DATE	END DATE
INSTANT MESSAGE ID		CARRIER	EFFECTIVE DATE	END DATE
BLOG IDENTIFIERS		CARRIER	EFFECTIVE DATE	END DATE
CHAT IDENTIFIERS		CARRIER	EFFECTIVE DATE	END DATE
TEXT IDENTIFIERS		CARRIER	EFFECTIVE DATE	END DATE
FAX / PAGER / OTHER		CARRIER	EFFECTIVE DATE	END DATE
UNIFORM RESOURCE LOCATOR (URL)	CARRIER	USER ID	EFFECTIVE DATE	END DATE
INTERNET PROTOCOL (IP) ADDRESS	CARRIER	USER ID	EFFECTIVE DATE	END DATE
MAINTAINED INTERNET SITES	CARRIER	USER ID	EFFECTIVE DATE	END DATE
WEBSITE MEMBERSHIP DETAILS	CARRIER	USER ID	EFFECTIVE DATE	END DATE
JA 1164				

When assessing whether a law is unduly vague in violation of due process, the Supreme Court has directed courts to evaluate “several important values:”

First, because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by not providing fair warning. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an *ad hoc* and subjective basis, with the attendant dangers of arbitrary and discriminatory applications.

Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc., 455 U.S. 489, 498 (1982) (quoting Grayned v. City of Rockford, 408 U.S. 104, 108-09 (1972)). Although the void-for-vagueness doctrine focuses on both notice to citizens and arbitrary enforcement, the more important aspect of the doctrine is on the second element—“the requirement that a legislature establish minimal guidelines to govern law enforcement.” Kolender v. Lawson, 461 U.S. 352, 358 (1983) (quoting Smith v. Goguen, 415 U.S. 566, 574 (1974)).

Here, none of these considerations tip in favor of the Does. Mo. SORA puts individuals on notice that they must register (and update) personal information with law enforcement. Mo. Stat. Rev. § 589.407. The information they are required to provide must be provided in one of two formats—either on the form developed by the MSHP or a format approved by the MSHP. Mo. Stat. Rev. § 589.407.1. The Does have not argued that the information requested by the MSHP goes beyond the provisions in Mo. SORA. Nor have they claimed the form developed by MSHP (or other approved format) is confusing or not capable of being understood by a person of ordinary intelligence.

The use of a standardized form ameliorates concerns pertaining to lack of notice of the law and arbitrary or discriminatory enforcement. The Does have failed

to make a sufficient showing to demonstrate the law is so vague that it might “trap the innocent” or that it impermissibly delegates basic policy matters to law enforcement in a manner that poses a risk of arbitrary or discriminatory application. At most, the Does have asserted a theoretical concern that is insufficient to conclude the statute is unconstitutionally vague.

III. CONCLUSION

For the foregoing reasons, we affirm the judgment of the district court.
