FLORIDA SHERIFFS ASSOCIATION

Closing the Sexual Offender Loophole

A recent appellate court decision in *State of Florida v. Ray La Vel James* held that a person does not qualify as a "sexual offender" under § 943.0435(1)(h)(1), Florida Statutes if they have not yet been released from the sanction imposed. In this case, the defendant completed his prison sentence but never paid the $10,000 fine that was imposed. Because his fine had not yet been released or discharged, the defendant was not required to report as a "sexual offender" under § 943.0435(14)(b).

Based on the statutory wording, the court determined that to qualify as a "sexual offender" under §943.0435(1)(h)(1)(a)—thereby triggering the registration requirement—the person must be released from the "sanction imposed." The statute further provides that the "sanction... includes, but is not limited to, **a fine**, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility."

The current wording of the Florida sexual offender statute under §943.0435 has created an unintended loophole that allows sexual offenders to avoid registration as a sexual offender so long as they fail to pay any court-ordered fines. As a result, legislation is needed to close this loophole to ensure all sexual offenders in Florida are required to register regardless of whether they have paid their fines.

Support SB 234 Sen. Book and HB 193 Rep. Clemons

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