



OKLAHOMA  
STATE  
COURTS  
NETWORK

[Previous Case](#) [Top Of Index](#) [This Point in Index](#) [Citationize](#) [Next Case](#)

**NICHLOS v. STATE OF OKLAHOMA**

2025 OK CIV APP 35

Case Number: 122309

Decided: 10/03/2025

Mandate Issued: 10/30/2025

**THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA, DIVISION I**



---

Cite as: 2025 OK CIV APP 35, \_\_ P.3d \_\_

---

SHANE NICHLOS, Petitioner/Appellant,  
vs.  
THE STATE OF OKLAHOMA, Respondent/Appellee.

APPEAL FROM THE DISTRICT COURT OF  
STEPHENS COUNTY, OKLAHOMA

HONORABLE BRENT G. RUSSELL, TRIAL JUDGE

**REVERSED AND REMANDED**

Michael A. Risley, MICHAEL A. RISLEY, ATTORNEY & COUNSELOR AT LAW PLLC FIRM, Oklahoma City, Oklahoma, For Petitioner/Appellant,

Charles L. Sifers, Kaegan T. Clark, ASSISTANT DISTRICT ATTORNEY, Duncan, Oklahoma, For Respondent/Appellee.

BARBARA G. SWINTON, JUDGE:

¶1 Petitioner/Appellant Shane Nichlos appeals from an order denying his request to be removed from the Oklahoma Sex Offender Registry. Appellant argues that he met the statutory criteria pursuant to 57 O.S. § 583 (E), but that the trial court erred in denying his request. We reverse and remand for proceedings consistent with this opinion.

¶2 In 2013, Appellant was serving in the military in Japan where he had downloaded hundreds of pornographic images to an external hard drive. Within his files were two images of victims under the age of eighteen. Appellant was subsequently charged and convicted of possession of child pornography. He was sentenced to four months in military custody and was discharged later that year. When he returned to Oklahoma, he began registering as a Level One non-aggravated and non-habitual sex offender on October 4, 2013 pursuant to the Oklahoma Sex Offenders Registration Act (the Act or SORA), 57 O.S. §§ 581-590.2. Appellant registered regularly for the next eleven years, and has not been arrested or convicted for any felony or misdemeanor offenses during that period.

¶3 On January 23, 2024, Appellant filed a petition for removal from the Oklahoma Sex Offender Registry pursuant to 57 O.S. § 583 (E). Appellant submitted that he had been registered as a Level One offender and that he met the requirements under the statute. The Department of Corrections responded, asserting that it took no position for or against the court removing the designation and waived its opportunity to appear at a hearing on the matter. The State responded, requesting that the court deny Appellant's request, arguing that Appellant's residence is close to an educational facility with minors in attendance, and that the court should consider the nature of his offense and his current circumstances.

¶4 A hearing was held on June 4, 2024. Counsel for Appellant argued that the statute under which Appellant sought relief had two criteria: that he has been registered for ten years, and that he has not had a felony or misdemeanor arrest or conviction during his registration. Appellant testified, describing the circumstances which led to his conviction, and the process he goes through for registration. He explained that he is required to have supervision when visiting with his niece, that his registration has impacted his brother's custody arrangements, and that he would like to be closer to his family but keeps to himself so that no one gets in trouble. He also explained that he is required to renew his driver's license, which notes his status as a registered sex offender, every year. After considering argument and testimony, the trial court concluded that despite Appellant's continued good behavior, there was no disruption to Appellant's life other than the "embarrassment or inconvenience" of having to register. The trial court denied Appellant's application in an order dated June 4, 2024. Appellant appeals from this order.

¶5 The facts of this case are not disputed. The appeal presents a review of the district court's application of a statute which we review *de novo*. *McIntosh v. Watkins*, 2019 OK 6, ¶ 4, 441 P.3d 1094. We claim plenary, independent and non-deferential authority to examine a trial court's legal rulings. *Manley v. Brown*, 1999 OK 79, ¶ 22 n. 30, 989 P.2d 448. "To reverse for abuse of discretion we must determine the trial judge made a clearly erroneous conclusion and judgment, against reason and evidence." *State ex rel. Tal v. Oklahoma City*, 2002 OK 97, ¶ 3, 61 P.3d 234(citing *Abel v. Tisdale*, 1980 OK 161, 619 P.2d 608).

¶6 The statute under which Appellant applied for deregistration is 57 O.S. § 583 (E). This section provides:

Any person assigned a level of one who has been registered for a period of ten (10) years and who has not been arrested or convicted for any felony or misdemeanor offense since being released from confinement, may petition the district court in the jurisdiction where the person resides for the purpose of removing the level designation and allowing the person to no longer be subject to the registration requirements of the Sex Offenders Registration Act.

There is not a significant amount of legislative direction or case law addressing this section, and we find that the issue before us is one of first impression. Appellant argues that the trial court's findings are insufficient to sustain a denial of a request under 57 O.S. § 583. Appellant also argues that the trial court erred in finding that the SORA registration is a "simple embarrassment," but rather should have applied the facts of the case to the findings in *Starkey v. Oklahoma Department of Corrections*, 2013 OK 43, 305 P.3d 1004, which addresses the punitive nature of SORA registration.

¶7 The statute at issue is not lengthy -- it does not include enumerated factors to be weighed to determine whether a petitioner should be granted his or her request for removal from SORA registration. The parties on appeal disagree as to how much discretion is afforded to the trial court in this determination. Appellant argues that the words of the statute are plain, and that the predicates to qualifying for removal from registration are enumerated: a level one designation; and ten years of registration with no arrests or convictions. On the other hand, the State argues that the trial court is empowered with "broad discretion" to determine whether removal from the registry is warranted, and that the requirements under the statute are "minimum eligibility requirements." However, the language of the statute does not wholly support either conclusion. <sup>1</sup> Rather, upon reviewing the relevant statutes and case law, we find that the trial court should have engaged in a two-step process in determining whether Appellant's request should have been granted.

¶8 Based on the language in the statute, the trial court should have first determined whether Appellant met the specific criteria listed: whether he had been registered under a level one designation for ten years with no arrests or convictions. 57 O.S. § 583 (E). In this case, the trial court failed to make this undisputed factual finding.

¶9 However, we find that the trial court then has discretion to determine whether it is appropriate for Appellant to be relieved of the registration requirements pursuant to the policy goals of the Sex Offenders Registration Act, 57 O.S. §§ 581, *et seq.* Although the statute does not enumerate factors to be considered, we can glean several important considerations from the Act's other provisions and applicable case law. The Act was designed to protect the public from the danger of recidivism and aid law enforcement officials in identifying and alerting the public when necessary for protecting public safety. 57 O.S. § 581 (B). In enacting these provisions, the Legislature found that "the privacy interest in persons adjudicated guilty of [the applicable] crimes is less important than the state's interest in public safety." *Id.* However, under this statutory scheme, the state is required to determine the level of risk of the person to the community pursuant to 57 O.S. § 582.1, with level one indicating the lowest risk. An applicant petitioning for removal from SORA's registration requirements must be assigned a level one, inherently indicating that any applicant under this section has been assessed to pose the lowest level of risk to the community. Accordingly, this must also be taken into consideration by the trial court in analyzing the public safety impact in this stage of the proceeding.

¶10 In considering what is proper with respect to an application to be removed from SORA registration, the court in its exercise of discretion should consider the totality of the circumstances before it. This includes the public policy underlying the Act, including a public safety analysis, weighed with the disruption to the applicant's life incurred from the registration requirements. The trial court should consider any continuation of the behavior underlying the original conviction, but should also consider whether the behavior is in fact legal. We note here the important distinction between legal but less "desirable" activity versus the illegal, inappropriate behavior which led to the punishment in the first place. For example, in the case herein, the trial court appeared to have considered that Appellant still viewed pornography. A totality of the circumstances analysis could include inquiry into the character, frequency, and nature of the content. No such evidence was presented to the court in this case. Additionally, the trial court's consideration of the fact that Appellant was "just four years away" from no longer having to register is not a sufficient basis for denial, given that anyone applying under this section would be within a five-year window.

¶11 The trial court is also instructed to consider the punitive implications of SORA registration as set forth in *Starkey v. Oklahoma Department of Corrections*, 2013 OK 43, 305 P.3d 1004. For example, in the case before us, the trial court appeared to characterize Appellant's continued registration as "just embarrassment or inconvenience." In *Starkey*, the Oklahoma Supreme Court addresses the retroactive extension of an offender's registration length, considering the punitive nature of certain amendments to SORA. Following a detailed analysis of the impact of the statute's requirements, the court determined that SORA's effects are punitive. 2013 OK 43, ¶ 79, 305 P.3d 1004. This must be weighed against SORA's promotion of "deterrence through the threat of negative consequences," as explained further in *Starkey. Id.* at ¶ 63. <sup>2</sup>

¶12 Based upon our review of the record and applicable law, we find that the trial court failed to make findings on whether Appellant met the criteria under 57 O.S. 583 (E). The order is reversed, and the trial court is directed to conduct a hearing to determine whether the Appellant's request to be removed from the requirement to register should be granted, with findings consistent with this opinion.

¶13 REVERSED AND REMANDED.

GOREE, P.J., concurs and PRINCE, J., dissents.

---

PRINCE, J., dissenting:

¶1 I respectfully dissent. I have two disagreements with the Majority Opinion. I would hold that the "two-step process" outlined by the Majority Opinion for a decision under 57 O.S. § 583, should be identified only as a useful protocol or best-practices convention for the trial bench. I recognize the clear usefulness that the suggested "two-

step" inquiry would add to an examination under § 583, especially with regard to the Majority Opinion's statement that, in the second phase of the suggested analysis, the trial court "should consider the totality of the circumstances before it." Section 583 does not, however, in my view, mandate a "two-step" process. I would affirm the decision of the trial court and find that there was no demonstration of an abuse of the discretion, which I understand to be the long and the short of the question before us.

**FOOTNOTES**

BARBARA G. SWINTON, JUDGE:

<sup>1</sup> We note a recent opinion from a different division of this Court addressed this statute but reached a different result based upon the specific facts of that case. See case number 121,351.

<sup>2</sup> We note that the case of *Donaldson v. City of El Reno*, 2025 OK 9, 565 P.3d 346, is distinguishable from *Starkey* as well as the instant case for purposes of the issue before us. *Donaldson* addressed the issue of whether residency restrictions under a specific provision of SORA were punitive. See ¶ 26.

**Citationizer<sup>®</sup> Summary of Documents Citing This Document**

**Cite Name Level**

None Found.

**Citationizer: Table of Authority**

Cite Name	Level
<b>Oklahoma Supreme Court Cases</b>	
Cite	Name Level
<u>2002 OK 97, 61 P.3d 234,</u>	<u>STATE ex rel. TAL v. CITY OF OKLAHOMA CITY</u> Discussed
<u>2013 OK 43, 305 P.3d 1004,</u>	<u>STARKEY v. OKLAHOMA DEPARTMENT OF CORRECTIONS</u> Discussed at Length
<u>2019 OK 6, 441 P.3d 1094,</u>	<u>MCINTOSH v. WATKINS</u> Discussed
<u>1980 OK 161, 619 P.2d 608,</u>	<u>Abel v. Tisdale</u> Discussed
<u>2025 OK 9, 565 P.3d 346,</u>	<u>DONALDSON v. CITY OF EL RENO</u> Discussed
<u>1999 OK 79, 989 P.2d 448, 70 OBJ</u>	<u>Manley v. Brown</u> Discussed
<u>2752,</u>	
<b>Title 57. Prisons and Reformatories</b>	
Cite	Name Level
<u>57 O.S. 583,</u>	<u>Procedure for Registration</u> Discussed at Length
<u>57 O.S. 582.1,</u>	<u>Sex Offender - Pre-Release Risk Assessment - Assignment of Numeric Risk</u> Cited
	<u>Level</u>
<u>57 O.S. 581,</u>	<u>Short Title</u> Discussed at Length