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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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CARR *v.* UNITED STATES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

No. 08–1301. Argued February 24, 2010—Decided June 1, 2010

Enacted in 2006, the Sex Offender Registration and Notification Act (SORNA) makes it a federal crime for, *inter alia,* any person (1) who "is required to register under [SORNA]," and (2) who "travels in interstate or foreign commerce," to (3) "knowingly fai[l] to register or update a registration," 18 U. S. C. §2250(a). Before SORNA's enactment, petitioner Carr, a registered sex offender in Alabama, relocated to Indiana without complying with the latter State's registration requirements. Carr was indicted under §2250 post-SORNA. The Federal District Court denied Carr's motion to dismiss, which asserted that the §2250 prosecution would violate the Constitution's *Ex Post Facto* Clause because he had traveled to Indiana before SORNA's effective date. Carr then pleaded guilty and was sentenced to prison. Affirming the conviction, the Seventh Circuit held that §2250 does not require that a defendant's travel postdate SORNA and that reliance on a defendant's pre-SORNA travel poses no *ex post facto* problem so long as the defendant had a reasonable time to register post-SORNA but failed to do so, as had Carr.

Held: Section 2250 does not apply to sex offenders whose interstate travel occurred before SORNA's effective date. Pp. 5–18.

(a) The Court rejects the Government's view that §2250(a) requires a sex-offense conviction, subsequent interstate travel, and then a failure to register, and that only the last of these events must occur after SORNA took effect. The Court instead accepts Carr's interpretation that the statute does not impose liability unless a person, after becoming subject to SORNA's registration requirements, travels across state lines and then fails to register. That interpretation better accords with §2250(a)'s text, the first element of which can only be satisfied when a person "is required to register under SORNA."

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§2250(a)(1). That §2250 sets forth the travel requirement in the present tense ("travels") rather than in the past or present perfect ("traveled" or "has traveled") reinforces this conclusion. See, *e.g.*, *United States* v. *Wilson*, 503 U. S. 329, 333. And because the Dictionary Act's provision that statutory "words used in the present tense include the future as well as the present," 1 U. S. C. §1, implies that the present tense generally does not include the past, regulating a person who "travels" is not readily understood to encompass a person whose only travel occurred before the statute took effect. Indeed, there appears to be no instance in which this Court has construed a present-tense verb in a criminal law to reach preenactment conduct. The statutory context also supports a forward-looking construction of "travels." First, the word "travels" is followed in §2250(a)(2)(B) by a series of other present tense verbs—"enters or leaves, or resides." A statute's "undeviating use of the present tense" is a "striking indic[ator]" of its "prospective orientation." *Gwaltney of Smithfield, Ltd.* v. *Chesapeake Bay Foundation, Inc.*, 484 U. S. 49, 59. Second, the other elements of a §2250 violation are similarly set forth in the present tense: Sections 2250(a)(1) and (a)(3) refer, respectively, to any person who "*is* required to register under [SORNA]" and who "knowingly *fails* to register or update a registration." (Emphasis added.) Had Congress intended preenactment conduct to satisfy §2250's first two requirements but not the third, it presumably would have varied the verb tenses, as it has in numerous other federal statutes. Pp. 5–11.

(b) The Government's two principal arguments for construing the statute to cover pre-SORNA travel are unpersuasive. Pp. 11–18.

(1) The claim that such a reading avoids an "anomaly" in the statute's coverage of federal versus state sex offenders is rejected. Section 2250 imposes criminal liability on two categories of persons who fail to adhere to SORNA's registration requirements: any person who is a sex offender "by reason of a conviction under Federal law . . . ," §2250(a)(2)(A), and any other person required to register under SORNA who "travels in interstate or foreign commerce," §2250(a)(2)(B). The Government's assertion that §2250(a)(2)'s jurisdictional reach should have comparable breadth as applied to both federal and state sex offenders is little more than *ipse dixit*. It is entirely reasonable for Congress to have assigned the Federal Government a special role in ensuring compliance with SORNA's registration requirements by federal sex offenders, who typically would have spent time under federal criminal supervision. It is similarly reasonable for Congress to have given the States primary responsibility for supervising and ensuring compliance among state sex offenders and to have subjected such offenders to federal criminal liability only

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when, after SORNA's enactment, they use interstate commerce channels to evade a State's reach. The Seventh Circuit erred in analogizing §2250 to 18 U. S. C. §922(g), which prohibits convicted felons from "possess[ing] in . . . commerc[e] any firearm or ammunition." According to the lower court, §2250(a), like §922(g), uses movement in interstate commerce as a jurisdictional element to establish a constitutional predicate for the statute, not to create a temporal requirement. However, the proper analogy here is not between the travel of a sex offender and the movement of a firearm, but between the sex offender who "travels" and the convicted felon who "possesses." The act of travel by a convicted sex offender may serve as a jurisdictional predicate for §2250, but it is also, like the act of possession, the very conduct at which Congress took aim. Pp. 11–14.

(2) Also unavailing is the Government's invocation of one of SORNA's purposes, to locate sex offenders who failed to abide by their registration obligations. The Government's argument confuses SORNA's general goal with §2250's specific purpose. Section 2250 is not a stand-alone response to the problem of missing sex offenders; it is embedded in a broader statutory scheme enacted to address deficiencies in prior law that had enabled sex offenders to slip through the cracks. By facilitating the collection of sex-offender information and its dissemination among jurisdictions, these other provisions, not §2250, stand at the center of Congress' effort to account for missing sex offenders. While subjecting pre-SORNA travelers to punishment under §2250 may well be consistent with the aim of finding missing sex offenders, a contrary construction in no way frustrates that broad goal. Taking account of SORNA's overall structure, there is little reason to doubt that Congress intended §2250 to do exactly what it says: to subject to federal prosecution sex offenders who elude SORNA's registration requirements by traveling in interstate commerce. Pp. 14–17.

(3) None of the legislative materials the Government cites as evidence of SORNA's purpose calls this reading into question. To the contrary, the House Judiciary Committee's Report suggests not only that a prohibition on postenactment travel is consonant with Congress' goals, but also that it is the rule Congress in fact chose to adopt. Pp. 17–18.

(c) Because §2250 liability cannot be predicated on pre-SORNA travel, the Court need not address whether the statute violates the *Ex Post Facto* Clause. P. 18.

551 F. 3d 578, reversed and remanded.

SOTOMAYOR, J., delivered the opinion of the Court, in which ROBERTS, C. J., and STEVENS, KENNEDY, and BREYER, JJ., joined, and in which

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SCALIA, J., joined except for Part III–C. SCALIA, J., filed an opinion concurring in part and concurring in the judgment. ALITO, J., filed a dissenting opinion, in which THOMAS and GINSBURG, JJ., joined.