RECORD IMPOUNDED

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2140-20
A-2598-20

IN THE MATTER OF
REGISTRANT J.B.

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IN THE MATTER OF
REGISTRANT D.T.

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Argued October 18, 2021 – Decided February 23, 2023

Before Judges Messano, Accurso and Rose.

On appeal from the Superior Court of New Jersey, Law Division, Essex County, Docket Nos. ML-14-07-0104 and ML-12-07-0085.

Michael C. Woyce, Assistant Deputy Public Defender, argued the cause for appellants J.B. and D.T. (Joseph E. Krakora, Public Defender, attorney; Michael C. Woyce, on the briefs).

Matthew E. Hanley, Special Deputy Attorney General/ Acting Assistant Prosecutor, argued the cause for respondent State of New Jersey (Theodore N. Stephens II, Acting Essex County Prosecutor, attorney; Matthew E. Hanley, of counsel and on the briefs).

The opinion of the court was delivered by

ACCURSO, J.A.D.

These two Megan's Law tiering cases, which were argued back-to-back by the same lawyers, and which we now consolidate for purposes of the opinion, raise the same issue in different factual circumstances. Both J.B. and D.T. became subject to Megan's Law, N.J.S.A. 2C:7-1 to -23, and its registration and notification requirements after each pleaded guilty to second-degree endangering the welfare of a child, N.J.S.A. 2C:24-4(a), and was sentenced to State prison. Both were initially tiered as Tier II, moderate-risk offenders in 2015 on their release from prison, and the trial court ordered both excluded from the internet registry at the State's request based on its overreading of In re N.B., 222 N.J. 87 (2015). Specifically, the State focused on both registrants having committed a "sole sex offense" against a child to whom they stood in loco parentis within the household, ignoring that endangering the welfare of a child is not one of the two enumerated offenses in the household/incest exception in N.J.S.A. 2C:7-13(d)(2). N.B., 222 N.J. at 97 (explaining the three requirements of the household/incest exception).

The issue in these cases is whether that mistake of law permitted the trial court to order J.B. and D.T. included on the internet registry under Rule 4:50-

1(e) or (f) in 2021, six years after their initial classifications.[1] We hold relief under Rule 4:50-1(f), the "catch-all" category, was not available to the State in either case. But because changed circumstances in J.B.'s case rendered it no longer equitable that the prior order excluding him from the internet registry should have prospective application, including J.B. on the internet registry was permissible under Rule 4:50-1(e). Because there were no similarly changed circumstances in D.T.'s case, relief to the State under Rule 4:50-1(e) in his case was unwarranted.

Given the legal issue in the cases, we need only sketch the facts of each matter, which are not disputed. We begin with J.B.

J.B. was alleged to have sexually assaulted the daughter of his live-in girlfriend anywhere from fifty to one hundred times over a four-year period beginning when she was thirteen years old, reportedly threatening "that her mother would get in trouble for child endangerment and it would ruin her family and they would be disappointed in her" if she told anyone. He was charged with first-degree aggravated sexual assault of a minor and other sexual offenses and, as noted, entered a negotiated plea to child endangerment. He

[1] The trial court stayed internet notification pending appeal in both cases, stays we continued pending our disposition of the matters.

was sentenced to six years in State prison with three years of parole ineligibility, parole supervision for life and made subject to Megan's Law.

The Adult Diagnostic and Treatment Center report provided to the court at the time of sentencing noted the "case presents diagnostic difficulty." The evaluator found "evidence of repetition" based on the victim's disclosures but found it "[l]ess clear" whether J.B.'s conduct "could be described as compulsive" as opposed to "opportunistic and exploitative." In "the absence of a clear finding of compulsive sexual behavior," J.B. was determined to be ineligible for sentencing under the Sex Offender Act, N.J.S.A. 2C:47-3. See In re D.F.S., 446 N.J. Super. 203, 213 (App. Div. 2016) (discussing sentencing under the Sex Offender Act).

In 2015, following J.B.'s release from prison, the State moved to classify him as a Tier II registrant with inclusion on the internet registry, N.J.S.A. 2C:7-12 to -18, based on his Registrant Risk Assessment Scale (RRAS) score of 45. At the hearing, however, which took place a few weeks after the Court issued N.B., the assistant prosecutor advised the court that after reviewing the decision, his office determined J.B. fell within the household/incest exception and accordingly requested he be excluded from the internet registry. The court entered an order on August 13, 2015, designating J.B. as a Tier II, moderate-

risk offender, but directing his personal identifiers not be included in the internet registry.

The State moved in December 2016 to amend the order to include J.B. in the internet registry but withdrew the motion in February 2017. At a hearing the following May on the State's motion for renotification based on the registrant having moved to a new apartment, the assistant prosecutor addressed the withdrawn motion. He represented there'd been a question "at the time" as to whether J.B. was appropriately excluded from the registry, adding, "[b]ut there is a prior court ruling, so we're not going to move to change that."

In February 2018, J.B.'s parole officer conducted an early morning visit at J.B.'s approved residence in Newark and found him not at home. A subsequent investigation revealed he'd been staying with his girlfriend in East Orange after having been denied permission to do so, and he was arrested on a parole warrant. Testimony at his parole revocation hearing established J.B., while maintaining stable employment, refraining from drug and alcohol use and staying up to date with his registration requirements since becoming subject to parole supervision for life, had "also exhibited an alarming disregard for other conditions," namely successful participation in sex offender treatment.

Indeed, except for his guilty plea to endangering the child of his ex-girlfriend, J.B. had otherwise "persistently denied" having sexual contact with the girl. A "Living with Child Assessment" in June 2015, undertaken because J.B. wished to live with his new girlfriend and her two minor daughters, reflected he suffered a "compulsive and repetitive sexual arousal to underage girls." Parole accordingly denied him permission to have any unsupervised contact or to reside with his girlfriend's underaged daughters. A polygraph exam administered in June 2016 indicated J.B. was not candid in his answers, resulting in a recommendation that J.B. be required to address the facts leading to his conviction and resume sex offender counseling.

When J.B. again asked to be allowed to reside with his girlfriend in April 2017, this time in a second-floor apartment of a multi-family house in East Orange — where his girlfriend was then living in the first-floor apartment with her two daughters and her mother — Parole sent a referral to the Division of Child Protection and Permanency to review it, given J.B.'s prior conviction "and the close proximity to the children's residence." The Division opposed the address change and Parole subsequently denied it.

After J.B. was advised of the denial in May 2017, he nevertheless co-signed a lease for the apartment with his girlfriend for a term beginning July 1,

2017. J.B.'s girlfriend testified she and her sister lived in the second-floor apartment, her mother and children lived in the first-floor apartment, and J.B.'s brother and his family previously lived in the third-floor apartment. She claimed J.B. only "co-signed the lease because her credit was not good enough to get the apartment." Although acknowledging she knew J.B.'s request to live in the apartment with her was denied, she claimed he did not sleep over, and she only saw him about "five times a week," usually between the hours of 10:00 p.m. and 2:00 to 3:00 a.m., either in the apartment or in his car.

In May 2018, a Parole Board Panel found clear and convincing evidence J.B. had violated two conditions of his parole — residing at a residence approved by his assigned parole officer and obtaining the permission of his parole officer prior to any change of address or residence.[2] Although J.B.'s parole officer had recommended his parole be revoked, the Panel found revocation was not warranted as the violations were "not serious or persistent" and ordered J.B. to submit to electronic monitoring for 90 to 180 days.

In November 2020, more than two years after the Parole Board's action, the State filed the motion for renotification at issue in this appeal based on

[2] This was apparently J.B.'s second violation of parole. The record reflects he was charged with a parole violation in August 2015, for which he was incarcerated for nearly three months.

J.B.'s move to East Orange and sought to correct its initial tiering error by adding him to the internet registry.

Turning to D.T., he was charged with second-degree sexual assault and child endangerment, among other offenses, after his live-in girlfriend reported to police he had sexually assaulted her fourteen-year-old daughter on four occasions. He pleaded guilty to endangerment and was sentenced in 2010 to three years in prison. His judgment of conviction was amended in 2011 to add parole supervision for life.

D.T. was released from prison in 2012. He was deemed not eligible for treatment at the New Jersey Adult Diagnostic and Treatment Center at sentencing, N.J.S.A. 2C:47-1 to -10, and to be at "low risk for committing another sex offense" based on his risk assessment scores on leaving prison. The State moved in May 2015 to classify him as a Tier II registrant with inclusion on the internet registry, based on his RRAS score of 53. As with J.B., however, the State amended its application following the Court's issuance of N.B. to exclude D.T. from the internet registry. The court accordingly entered an order in October 2015 that designated D.T. as a Tier II offender and directed his personal identifiers not be included in the internet registry.

The State moved in late 2019 for renotification based on D.T.'s change of address. At the hearing, which D.T. did not attend, the State confirmed he should remain a moderate risk, Tier II offender, and he was not included in the internet registry based on N.B. The court entered an order in January 2020, continuing D.T.'s Tier II designation and that he not be included on the internet registry.

Later that year, D.T. again changed his address, submitting an updated registration form in August. In November, the State submitted a new risk assessment noting D.T.'s score remained unchanged at 53, classifying him a Tier II offender, but asserting he should be included in the internet registry because although he "was a household member, . . . he was convicted of endangering the welfare of a child, which is not enumerated under 2C:7-13(d)." The State's notice of motion for renotification, however, did not reflect it was seeking to include D.T. in the internet registry. The State advised both the court and D.T. of the error at the motion hearing in February 2021, and the court accordingly adjourned the motion to permit D.T. to obtain counsel.

A few weeks later, the court heard argument on the State's motion to add J.B. to the internet registry. J.B. conceded he was properly classified as a Tier II offender, which would ordinarily mandate his inclusion in the internet

registry. He contended, however, that the court's prior orders going back to 2015 directing he not be placed on the registry were controlling, and the State was too late to correct its mistake, especially as it had been aware of its error since at least 2017. Acknowledging his parole violation, J.B. stressed his parole had not been revoked as the Parole Board deemed the infraction "not serious or persistent." He argued nothing had changed to warrant his inclusion on the registry, and it was "fundamentally unfair" for the State to include him in the registry now.

The State countered that it was entitled to relief under Rule 4:50-1, as J.B. had never qualified for the incest/household exception, and his parole violation demonstrated the public safety need to have his personal identifiers included in the internet registry. The State acknowledged the Parole Board's finding that J.B.'s violation of the conditions of his parole was not serious. But it emphasized its own concern with J.B. having simply ignored Parole's refusal to permit him to live with a new girlfriend with two underaged daughters so shortly after his release from prison for endangering the welfare of the underage daughter of his former girlfriend.

The judge granted the State's motion to include J.B. in the internet registry. In a thoughtful, written opinion, the court looked to two cases relied

on by the parties, In re R.D., 384 N.J. Super. 61, 66 (App. Div. 2006), in which we held principles of res judicata did not bar the State's Rule 4:50-1 motion to reassess an RRAS static factor in light of new facts not known or considered by the judge entering the prior judgment, and In re R.A., 395 N.J. Super. 565, 568 (App. Div. 2007), where we held such relief was not available to permit a judge to reassess the same facts a prior judge had considered in entering the earlier judgment. Although acknowledging certain similarities between those cases and this one, the judge found neither precisely on point, because "this case does not implicate a reassessment of any static or dynamic factors and in fact does not implicate the RRAS scores at all."

Noting both parties' agreement that the incest/household exception does not apply to J.B. and that he "belongs on the internet" under the "clear terms" of N.J.S.A. 2C:7-13(c) and (d), the judge concluded res judicata does not "confer the registrant with the perpetual benefit of an internet exception he was never entitled to." While rejecting the State's contention that "mistake" under Rule 4:50-1(a) or "newly discovered evidence" under Rule 4:50-1(b) could support relief, as both were time-barred under Rule 4:50-2, the court found

relief was available based on "a change in circumstances" under Rule 4:50-1(e) and exceptional circumstances under Rule 4:50-1(f).[3]

Specifically, the court found clear and convincing evidence of a change in circumstance relating to the "characteristics and propensities of the offender," N.J.S.A. 2C:7-13(e), which now warranted "internet notification."[4]

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[3] The Rule provides:

> On motion, with briefs, and upon such terms as are just, the court may relieve a party or the party's legal representative from a final judgment or order for the following reasons: (a) mistake, inadvertence, surprise, or excusable neglect; (b) newly discovered evidence which would probably alter the judgment or order and which by due diligence could not have been discovered in time to move for a new trial under R. 4:49; (c) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (d) the judgment or order is void; (e) the judgment or order has been satisfied, released or discharged, or a prior judgment or order upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment or order should have prospective application; or (f) any other reason justifying relief from the operation of the judgment or order.

[4] N.J.S.A. 2C:7-13(e) provides:

> Notwithstanding the provisions of paragraph d. of this subsection, the individual registration record of an offender to whom an exception enumerated in

The judge found J.B., "[d]espite assessments and denials of his proposed living arrangements, . . . simply disregarded his parole conditions and remained at a location he was expressly told he could not live." While acknowledging it "may not have warranted parole revocation, it does demonstrate a disregard of his [parole supervision for life] obligations when it suits him, as outlined in the assessments." Further, the judge expressed concern over the "repetitive and compulsive finding" in the "Living with Child Assessment" conducted in 2015, which was "information not previously known, as the endangering offense of conviction was ineligible for ADTC sentencing under N.J.S.A. 2C:47-3 and no such evaluation was done prior."[5]

> paragraph (1), (2) [the household/incest exception] or (3) of subsection d. of this section applies shall be made available to the public on the Internet registry if the offender's conduct was characterized by a pattern of repetitive, compulsive behavior, or the State establishes by clear and convincing evidence that, given the particular facts and circumstances of the offense and the characteristics and propensities of the offender, the risk to the general public posed by the offender is substantially similar to that posed by offenders whose risk of re-offense is moderate and who do not qualify under the enumerated exceptions.

[5] The judge rejected a psychological report offered on J.B.'s behalf that found him at low risk for re-offense because it failed to substantively address his violations of parole supervision for life or "how they bear on the risk." The

Although acknowledging the merit in J.B.'s argument that the State should have corrected its error sooner, the judge also found "[t]he facts here weigh in favor of granting the State's motion" under Rule 4:50-1(f). The judge emphasized "that Megan's Law registration is for life and by its very nature can change when renotification is required or when registrants move for relief from their obligations." Distilling the tension in this case as a "balance . . . between the public safety principles espoused in Megan's Law and the registrant's interest in the finality of the initial tiering order," the judge found "[t]he public policy decision embodied in N.J.S.A. 2C:7-13(c) outweighs any res judicata principles that would serve to confer [J.B.] with the perpetual benefit of an exception that does not apply to him."

By the time the court heard the State's motion in D.T.'s case, the judge had already ruled in favor of the State in J.B.'s matter. Although the State was represented by a different assistant prosecutor, D.T. was represented by the same assistant public defender who represented J.B. and both sides were well familiar with the judge's decision in J.B.'s case. The State argued the same considerations applied, likened the matter to correction of an illegal sentence,

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judge also noted the report was of no assistance in answering the legal question presented.

and contended it was entitled to relief under Rule 4:50-1(e) and (f). D.T. argued his case was different from J.B.'s because there were no changed circumstances, and the only reason the matter was back before the court was because D.T. had moved to a different address within the City of Newark. Counsel also noted the prosecutor's office's awareness of its misreading of N.B. in 2017, albeit in another case prosecuted by a different assistant prosecutor.

The judge rejected the State's position that correcting the failure to have originally included D.T. in the internet registry is analogous to correction of an illegal sentence because Megan's Law is remedial legislation, and its goal is not the punishment of registrants. See Doe v. Poritz, 142 N.J. 1, 43 (1995); see also In re Registrant C.A., 146 N.J. 71, 91 (1996) (explaining "notification pursuant to Megan's Law is not punishment for a criminal action but rather is a civil remedy to ensure public safety"). He determined to follow his decision in J.B. that res judicata principles were outweighed by the public policy expressed in Megan's Law's "and that registrants should not be given the perpetual benefit of an exception that never applied to [them] in the first place." The judge accordingly entered an order granting the State's motion to

amend D.T.'s scope of notification to include placement on the internet registry.

J.B. and D.T. appeal, reprising the arguments they made to the trial court that relief was not available to the State under Rule 4:50, R.A. controls, and principles of res judicata should have prevented their inclusion on the internet registry. The State counters that its Rule 4:50 motions were timely, R.D. is more instructive, and the judge did not abuse his discretion in declining to apply res judicata to bar correction of its earlier mistake of law.

We review a trial court's Megan's Law tier designation and scope of community notification only for abuse of discretion. In re B.B., 472 N.J. Super. 612, 619 (App. Div. 2022). We do not, however, accord that court's "interpretation of the law and the legal consequences that flow from established facts . . . any special deference." Manalapan Realty, L.P. v. Twp. Comm., 140 N.J. 366, 378 (1995).

Neither J.B. nor D.T disputes that he was properly classified as a Tier II, moderate risk offender, who did not qualify for the incest/household exception of N.J.S.A. 2C:7-13(d), and thus should have been included in the internet registry when each was initially tiered in 2015. Both agree, as does the State, they would have been included in the internet registry when they were initially

classified in 2015 but for the State's request they not be included based on its misreading of N.B.

We agree with the trial court that neither R.D. nor R.A. is precisely on point. But those cases inform our decision because they remind us that a Megan's Law tiering hearing "is a civil proceeding that stands apart from the criminal proceeding in which [the registrant] was convicted and sentenced,"[6] E.B. v. Verniero, 119 F.3d 1077, 1111 (3d Cir. 1997), and underscore that although tiering decisions are "an ongoing process," R.A., 395 N.J. Super. at 570 (quoting Attorney General Guidelines for Law Enforcement for the Implementation of Sex Offender Registration and Community Notification Laws 52 (2005)), res judicata principles apply, and Rule 4:50 controls attacks on a prior classification decision, R.D., 384 N.J. Super. at 66-67.

Our Supreme Court has described Rule 4:50-1 as "a carefully crafted vehicle intended to underscore the need for repose while achieving a just result," DEG, LLC v. Twp. of Fairfield, 198 N.J. 242, 261 (2009), and admonished relief under the Rule is to be "granted sparingly," F.B. v. A.L.G.,

[6] We accordingly agree with the trial court that an error in a registrant's classification based on the State's mistake of law is not analogous to an illegal sentence, which may be corrected at any time. See In re H.M., 343 N.J. Super. 219, 223 (App. Div. 2001) (explaining the "notification provisions are neither criminal nor punitive in nature but are civil remedies").

176 N.J. 201, 207 (2003). Because the Rule "denominates with specificity the narrow band of triggering events that will warrant relief from judgment if justice is to be served. . . . [o]nly the existence of one of those triggers will allow a party to challenge the substance of the judgment." DEG, 198 N.J. at 261-62.

Because the Court has deemed Rule 4:50-1 "the mechanism by which a party may obtain relief from a final judgment or order," F.B., 176 N.J. at 207, it is the Rule we look to, and particularly subsections (e) and (f), the subsections on which the State relies, to guide us in determining whether the trial court is correct "[t]he public policy decision embodied in N.J.S.A. 2C:7-13(c) outweighs any res judicata principles that would serve to confer [a] registrant with the perpetual benefit of an exception that does not apply to him." Conducting that analysis, we are satisfied the State could not look to subsection (f) to correct the mistake of law it made about applicability of the incest/household exception in 2015, which induced the court to enter the initial tier orders excluding these two registrants from the internet registry.

Although the Court has commented on many occasions about the "capacity for relief in exceptional situations" afforded by subsection (f) of Rule 4:50-1, where "its boundaries are as expansive as the need to achieve

equity and justice," see, e.g., Hous. Auth. of Morristown v. Little, 135 N.J. 274, 286 (1994) (quoting Ct. Inv. Co. v. Perillo, 48 N.J. 334, 341 (1966)), it has also noted relief under subsection (f) "is available only when truly exceptional circumstances are present and only when the court is presented with a reason not included among any of the reasons subject to the one year limitation," Baumann v. Marinaro, 95 N.J. 380, 395 (1984). Mistakes of law, either by counsel for a party or the court, are not grounds for relief under Rule 4:50. Hendricks v. A.J. Ross Co., 232 N.J. Super. 243, 248-49 (App. Div. 1989). The law is well settled "an attorney's error of law is not sufficient to relieve a party from a final judgment or order." DEG, 198 N.J. at 263 (quoting Posta v. Chung-Loy, 306 N.J. Super. 182, 206 (App. Div. 1997)).

The reason for that limiting principle is readily apparent — mistakes of law are, unfortunately, fairly commonplace. Allowing them to suffice to reopen a judgment would shortchange our courts' "strong interests in finality of judgments and judicial efficiency," Manning Eng'g, Inc. v. Hudson Cnty. Park Comm'n, 74 N.J. 113, 120 (1977), "the importance of [which] should not be lightly dismissed," Baumann, 95 N.J. at 395. That the assistant prosecutor's mistake involved Megan's Law, enacted to protect the public "from the dangers

of recidivism by sexual offenders," C.A., 146 N.J. at 80, does not change the result.

Failure to include a Tier II offender's personal identifiers in the internet registry based on a mistake of law is not the sort of "fraud upon the public" the Court has found would qualify as "truly exceptional circumstances" permitting relief under subsection (f) even where relief would ordinarily be barred under another subsection of the Rule. Manning, 74 N.J. at 118-19, 122-23 (relying on subsection (f) to re-open a judgment to prevent the plaintiff from collecting a damage award for breach of a public contract entered into as part of an illegal kickback scheme, notwithstanding the fraud would not qualify as newly discovered evidence under subsection (b)).

The error by the prosecutor's office here resulted from the simple failure to closely read a recent slip opinion of the State's highest Court, not from any deliberate act of malfeasance. Indeed, the error reflects nothing other than a good faith attempt by the prosecutor's office to ensure the rights of Megan's Law registrants in accord with the Court's pronouncements. That the State's error occurred in the context of applying a law intended to ensure public safety does not bring the case within the public policy exception represented by Manning. See DEG, 198 N.J. at 270-71 (explaining the Manning exception).

Although our courts have looked to subsection (e) infrequently in allowing relief under Rule 4:50, Little, 135 N.J. at 285, we think the State is on firmer footing here in relying on that portion of subsection (e) that permits relief in circumstances where "it is no longer equitable that the judgment or order should have prospective application," at least as to J.B. Although we are not aware of the subsection's prior application to a Megan's Law tiering decision, Judge Pressler noted subsection (e) "is particularly applicable to judgments entered in public interest litigation calling for continuing judicial oversight." Pressler & Verniero, Current N.J. Court Rules, cmt. 5.5.2 on R. 4:50-1 (2023).

Given our courts' continued oversight of the classification of registrants sentenced to parole supervision for life, subsection (e) would appear the more appropriate mechanism to consider the State's 2021 motions to modify the 2015 tiering orders in these cases to include J.B. and D.T. in the internet registry. See Toll Bros., Inc. v. Twp. of W. Windsor, 334 N.J. Super. 77, 98-100 (App. Div. 2000) (discussing standard for modifying judgments in cases calling for continued judicial oversight).

The Court has explained subsection (e) "is rooted in changed circumstances that call the fairness of the judgment into question." DEG, 198

N.J. at 265-66. While noting the subsection establishes a flexible standard for modification of a prior judgment, the Court has also stressed that relief "should ordinarily not be granted where the so-called changed circumstances were actually anticipated." Id. at 267-68. Accordingly, the trigger for application of the "flexible" standard of modification of a judgment or order under subsection (e) is a stringent one — a party seeking such relief must establish "a significant change in facts or law" warranting revision of the prior order. Toll Bros., 334 N.J. Super. at 100 (quoting Rufo v. Inmates of Suffolk Cnty. Jail, 502 U.S. 367, 393 (1992)).

Subsection (e)'s emphasis on significantly changed circumstances not actually anticipated in the prior order or judgment makes clear a renotification hearing prompted by a registrant's change of address cannot satisfy the changed circumstances trigger. Although it is certainly true the court must reevaluate a registrant's risk of re-offense whenever the State applies for renotification resulting from a change in where the registrant lives or works, H.M., 343 N.J. Super. at 224, that "ongoing process," Attorney General Guidelines for Law Enforcement for the Implementation of Sex Offender Registration and Community Notification Laws, 53 (2007) https://www.nj.gov/

oag/dcj/megan/meganguidelines-2-07.pdf (last visited Feb. 13, 2023), is one plainly anticipated by both statute and the Attorney General Guidelines.

Because a change in a registrant's address is designed to prompt a renotification hearing, it cannot alone suffice to satisfy subsection (e)'s stringent changed circumstances standard. In addition, a registrant's change of address would not necessarily constitute "a significant change in facts," Toll Bros., 334 N.J. Super. at 100 (quoting Rufo, 502 U.S. at 393), or one that would "call the fairness of the judgment into question," DEG, 198 N.J. at 265-66. These two cases well illustrate the point.

The only change in circumstance on which the State relies in D.T.'s case is his moving to a new home in Newark. It makes no effort to explain how that change qualifies as a significant alteration in the facts of his case or what about his move would impugn the fairness of the 2015 tiering order or make it "no longer equitable that the . . . order should have prospective application." R. 4:50-1(e). The State acknowledges D.T.'s RRAS score actually dropped by three points in 2021. Its only argument both in the trial court and on appeal is that D.T.'s exclusion from the internet registry in 2015 was based on a mistake of law that should be corrected, a reason not entitled to relief under any

provision of Rule 4:50-1.[7] See DEG, 198 N.J. at 263; see also In re Guardianship of J.N.H., 172 N.J. 440, 476 (2002) (noting the "purpose of a Rule 4:50 motion is not, as in appellate review, to advance a collateral attack on the correctness of an earlier judgment," but "to explain why it would no longer be just to enforce that judgment").

In contrast, the State argued and the court found in J.B.'s case that J.B.'s violation of his parole conditions by staying at his girlfriend's apartment with her underage daughters living on the floor below, despite knowing DCPP opposed the move and Parole forbade it, constituted a significant change in the facts requiring a reassessment of whether continuing his exclusion from the internet registry, a status he was never entitled to in the first place, was just.

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[7] In response to D.T.'s argument that res judicata principles should apply, the State also argued to us that D.T.'s placement on the internet registry was never "fully and fairly litigated," State v. K.P.S., 221 N.J. 266, 277 (2015), as "[t]here is no record of the internet registry even being discussed on the record prior to 2021." As a result, it claimed nothing prevented the trial judge from considering it anew. In his reply brief, D.T. disputed that the issue was not litigated in 2015. He also objected to the State's characterization of the record, given it failed to provide the trial court with the transcripts of the proceedings giving rise to the orders it sought to vacate. We required the State to provide those transcripts to us following oral argument. Having now reviewed the transcripts from D.T.'s initial tiering hearing in September 2015 and his 2019 renotification hearing, it is plain the issue was litigated as the State affirmatively requested D.T. not be included in the internet registry in 2015 in light of N.B., and confirmed the continuation of his status in 2019.

The court concluded J.B.'s blatant disregard of parole conditions tailored to avoid his having contact with children, coupled with a new "Living with Child Assessment" reflecting a "compulsive and repetitive sexual arousal to underage girls," implicated the very public safety concerns that prompted the Legislature to establish the internet registry, see In re D.F.S., 446 N.J. Super. 203, 210-11 (App. Div. 2016), and made J.B.'s continued exclusion from it unwarranted. Because those findings are supported by evidence in the record, we cannot find the trial court abused its discretion in determining it is no longer equitable that the initial 2015 tiering order excluding J.B. from the internet registry should continue to have prospective application. See In re J.G., 463 N.J. Super. 263-77 (App. Div. 2020); R. 4:50-1(e).

We agree with the trial court that these cases require a weighing of "the public safety principles espoused in Megan's Law and the registrant's interest in the finality of the initial tiering order," but conclude it's the faithful application of Rule 4:50-1 that strikes the proper balance between the competing interests. Although we conclude the State did not establish its entitlement to relief under Rule 4:50-1(f) in either matter on appeal, we affirm the judgment in J.B.'s case because the State demonstrated J.B.'s inclusion in the internet registry was warranted under Rule 4:50-1(e) based on the

significantly changed circumstances of his 2018 parole violation and the results of his "Living with Child Assessment." Because a registrant's change of address is designed to prompt a renotification hearing, see H.M., 343 N.J. Super. at 224, and as these two cases illustrate, the significance of such a change can vary widely, we conclude the court erred in concluding D.T.'s change of address satisfied the changed circumstances trigger of Rule 4:50-1(e), and thus reverse the order directing his inclusion in the internet registry.

Affirmed as to J.B.; reversed as to D.T. We continue the stay we previously entered as to J.B. for thirty days to permit him to consider a petition for certification in the Supreme Court without being subject to disclosure of his personal identifiers in the internet registry. Our stay in D.T.'s case is dissolved.