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SUMMARY  
May 30, 2024

**2024COA60**

**No. 22CA1997, *People v. Warren* — Criminal Law — Sex Offender Registration — Lifetime Mandatory Registration — Petition for Removal from Registry — Severe Physical or Intellectual Disability**

A division of the court of appeals considers two sections of the Colorado Sex Offender Registration Act (the Act) and concludes that sex offenders who are subject to the Act's lifetime registration requirement under section 16-22-113(3), C.R.S. 2023, are nonetheless eligible to file a petition to discontinue registration under section 16-22-113(2.5)(a).

Court of Appeals No. 22CA1997  
Jefferson County District Court No. 97CR1633  
Honorable Tamara S. Russell, Judge

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The People of the State of Colorado,

Plaintiff-Appellee,

v.

Maurice Peter Warren,

Defendant-Appellant.

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ORDER REVERSED AND CASE  
REMANDED WITH DIRECTIONS

Division III  
Opinion by JUDGE DUNN  
Yun and Moultrie, JJ., concur

Announced May 30, 2024

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Philip J. Weiser, Attorney General, Marixa Frias, Assistant Attorney General,  
Denver, Colorado, for Plaintiff-Appellee

Jonathan Willett, Boulder, Colorado, for Defendant-Appellant

¶ 1 Decades ago, defendant, Maurice Peter Warren, pleaded guilty to first degree sexual assault, subjecting him to mandatory lifetime sex offender registration under the Colorado Sex Offender Registration Act (the Act). *See* § 16-22-113(3)(b)(I), C.R.S. 2023.

¶ 2 Many years later, Warren filed a petition to discontinue sex offender registration under section 16-22-113(2.5)(a), which provides that “[n]otwithstanding any provision of this section to the contrary,” a registrant may file a petition to discontinue registration if the registrant “suffers from a severe physical or intellectual disability to the extent that” the person is “permanently incapacitated and does not present an unreasonable risk to public safety.”

¶ 3 After the prosecution objected, the district court denied Warren’s petition to discontinue registration without a hearing.

¶ 4 The questions before us are whether subsection (2.5)(a) applies to individuals who are subject to lifetime mandatory sex offender registration under subsection (3) and, if so, whether the district court erred by denying Warren’s petition without a hearing.

¶ 5 Based on the Act’s plain language, we hold that Warren is eligible to petition to discontinue sex offender registration under

subsection (2.5)(a) and that the court erred by denying his petition without a hearing. We therefore reverse and remand the case for further proceedings.

## I. Background

¶ 6 In 1997, Warren pleaded guilty to first degree sexual assault. Handwritten notes on the plea agreement state that Warren does not read English and takes medication to help him “think clearly,” and the presentence investigation report documented Warren’s low IQ and special intellectual needs.

¶ 7 The court sentenced Warren to thirteen years in prison. After completing his sentence, Warren was released and now resides in an assisted living facility. Since his release, Warren has been required to register as a sex offender.

¶ 8 In 2021, Warren filed a petition to discontinue sex offender registration under subsection (2.5)(a). In support of his petition, Warren attached mental health records outlining his intellectual disabilities.

¶ 9 The prosecution objected to the petition because Warren had not presented documentation that “twenty years have passed” since

his prison discharge. See § 16-22-113(1)(a) (establishing temporal requirements for filing a petition to discontinue registration).

¶ 10 After the district court scheduled a hearing on the petition, the prosecution moved to vacate the hearing. This time, the prosecution argued that persons convicted of first degree sexual assault are subject to lifetime registration under subsection (3) and are not eligible to petition to discontinue registration.

¶ 11 The court denied the petition without a hearing. Though the court accepted that Warren was eligible to petition to discontinue registration under subsection (2.5)(a) and that he “suffered from a severe intellectual disability,” it concluded that Warren had “provided no evidence” that he does not pose an unreasonable risk to public safety.

## II. The Colorado Sex Offender Registration Act

¶ 12 Warren contends that the district court erred by denying his petition to discontinue sex offender registration without a hearing. The People agree that if subsection (2.5)(a) applies, then the court erred by denying the petition without a hearing. See § 16-22-113(2.5)(g) (the court “shall” hold a hearing on a petition to discontinue if the prosecution or victim objects to the petition).

¶ 13 Warren and the People clash, however, as to whether subsection (2.5)(a) applies to individuals like Warren who are subject to lifetime sex offender registration under subsection (3). The People say it doesn't; Warren says it does.

¶ 14 To resolve this dispute, we must interpret section 16-22-113, which we do de novo. *See McCulley v. People*, 2020 CO 40, ¶ 10. Our fundamental task in doing that is to give effect to the legislature's intent. *Id.* To determine legislative intent, we begin with the plain language of the statute. *Garcia v. People*, 2023 CO 41, ¶ 14. If the language is clear and unambiguous, we apply the statute as written. *Id.*

¶ 15 Enacted in 2002, the Act created a comprehensive sex offender notification and registration system. *See* Ch. 297, sec. 1, §§ 16-22-101 to -114, 2002 Colo. Sess. Laws 1157-78. Under the Act, certain individuals — including those convicted of first degree sexual assault — are subject to lifetime sex offender registration and are not eligible to petition to discontinue registration. § 16-22-113(3) (outlining sex offenses subject to lifetime registration).

¶ 16 In 2018, however, the legislature amended the Act to add subsection (2.5)(a):

*Notwithstanding any provision of this section to the contrary*, a registrant . . . may file a petition to discontinue registration if the registrant suffers from a severe physical or intellectual disability to the extent that he or she is permanently incapacitated and does not present an unreasonable risk to public safety.

§ 16-22-113(2.5)(a) (emphasis added); Ch. 143, sec. 3,

§ 16-22-113(2.5)(a), 2018 Colo. Sess. Laws 924.

¶ 17 Our analysis begins with the text. And the legislature’s use of such a plain, broad “notwithstanding” clause “clearly signals the drafter’s intention that the provisions” of subsection (2.5)(a) “override conflicting provisions of any other section.” *Cisneros v. Alpine Ridge Grp.*, 508 U.S. 10, 18 (1993); *see also Lanahan v. Chi Psi Fraternity*, 175 P.3d 97, 102 (Colo. 2008) (“[N]otwithstanding” means “excluding, in opposition to, or in spite of other statutes.”). Indeed, the categorical “notwithstanding” clause in subsection (2.5)(a) communicates a clear intent to allow a narrow group of persons subject to sex offender registration — those who are permanently incapacitated and pose no unreasonable public safety threat — to petition to discontinue registration. Thus, the

“notwithstanding” clause in subsection (2.5)(a) overrides “any provision” of section 16-22-113 — including subsection (3) — that conflicts with it. *See Cisneros*, 508 U.S. at 18; *see also* Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 126-27 (1st ed. 2012) (A “notwithstanding” clause “shows which provision prevails in the event of a clash.”); *accord NLRB v. SW Gen., Inc.*, 580 U.S. 288, 301 (2017).

¶ 18 Despite the statutory language, the People maintain that subsection (2.5)(a)’s “notwithstanding” clause wasn’t intended to carve out an exception to the mandatory lifetime sex offender registration requirement in subsection (3). Instead, as we understand it, the People say that the “notwithstanding” clause overrides only subsection (1), which establishes time periods for eligible offenders to petition to discontinue registration. *See* § 16-22-113(1)(a)-(c). And the People offer a variety of contentions to support this interpretation.

¶ 19 But we can’t square the People’s interpretation with the plain language of subsection (2.5)(a). While we agree that the “notwithstanding” clause also overrides the time requirements in subsection (1), had the legislature intended to limit the

“notwithstanding” clause to just the time requirements in subsection (1), it could have done so. *See Cowen v. People*, 2018 CO 96, ¶ 12 (we presume that the legislature says what it means and means what it says in a statute). This is especially true where, as here, the legislature was aware of the time requirements in subsection (1) when it enacted subsection (2.5) and still instructed that “notwithstanding any provision of” section 16-22-113, a registrant who is permanently incapacitated and who doesn’t pose an unreasonable risk to public safety may petition to discontinue registration. *See LaFond v. Sweeney*, 2015 CO 3, ¶ 12 (“Courts presume the legislature is aware of its own enactments . . .”).

¶ 20 A second but related problem with the People’s attempt to limit the “notwithstanding” clause to apply only to subsection (1)’s timing requirements is that it reads the words “any provision of this section” out of subsection (2.5)(a). And we will not interpret a statutory provision in a way that renders any of its words or phrases meaningless. *See Pineda-Liberato v. People*, 2017 CO 95, ¶ 22.

¶ 21 To the extent the People suggest the “notwithstanding” clause doesn’t apply to subsection (3) because there’s no “direct conflict”

between subsections (2.5)(a) and (3), we are unpersuaded. Indeed, absent the exception carved out by subsection (2.5)(a)'s broad "notwithstanding" clause, subsections (2.5)(a) and (3) stand in direct conflict.

¶ 22 For these reasons, we conclude that Warren is eligible to petition to discontinue sex offender registration under subsection (2.5)(a). We therefore needn't consider Warren's alternate contention that any construction of the Act requiring mandatory lifetime sex offender registration for individuals with "severe intellectual" disabilities violates the Eighth Amendment's prohibition against cruel and unusual punishment.

¶ 23 Because the prosecution objected to Warren's petition, the district court was required to conduct a hearing under subsection (2.5)(g). We therefore must reverse the district court's order denying the petition without a hearing. In doing so, we express no opinion on the merits of Warren's petition.

### III. Disposition

¶ 24 We reverse the order and remand the case to the district court for further proceedings.

JUDGE YUN and JUDGE MOULTRIE concur.