STATE OF CONNECTICUT *v.* ERNEST M. DRUPALS
(SC 18697)

Rogers, C. J., and Palmer, Zarella, McLachlan, Eveleigh, Harper and Vertefeuille, Js.*

*Argued March 14—officially released August 28, 2012*

*Richard Emanuel*, for the appellant (defendant).

*Rita M. Shair*, senior assistant state's attorney, with whom were *David I. Cohen*, state's attorney, and, on the brief, *Michelle Bredefeld*, assistant state's attorney, for the appellee (state).

*Opinion*

EVELEIGH, J. The defendant, Ernest M. Drupals, appeals[1] from the judgment of conviction, rendered after a trial to the court, of two counts of failing to comply with the sex offender registry requirements of General Statutes § 54-251,[2] stemming from his failure to notify the sex offender registry unit (unit) of his change of residence in accordance with the terms of that statute. The defendant claims that the trial court improperly determined that there was sufficient evidence to prove he violated the statute.[3] We agree with the defendant and, accordingly, we reverse the judgment of the trial court.

The record reveals the following facts as found by the trial court, and procedural history, relevant to our resolution of this appeal. On June 26, 2002, following a conviction of twenty counts of possession of child pornography in violation of General Statutes (Rev. to 2001) § 53a-196d,[4] and three counts of voyeurism in violation of General Statutes (Rev. to 2001) § 53a-189a,[5] the trial court sentenced the defendant to a term of imprisonment of five years for each count, to run concurrently, execution suspended, and five years probation on each count, to run concurrently. Additionally, the trial court required the defendant to register as a sex offender for a period of ten years pursuant to § 54-251 (a). Thereafter, the defendant registered with the unit, a division of the state police. The defendant initially registered his address as his mother's home in Greenwich.

The unit conducted its routine address verification process by sending the defendant an address verification form by first class mail every ninety days. The defendant reliably completed and mailed back the address verification form within the required ten day period. On October 6, 2003, the defendant notified the unit of a change of his address to 80 Palmer Street in Stamford. The defendant thereafter continued to timely return the address verification forms through December, 2007.

On December 18, 2007, the unit mailed the defendant an address verification form. On December 27, 2007, the defendant hand delivered the completed form to the unit headquarters in Middletown. At that time, the defendant verbally informed Debbie Jenny, a detective with the state police, that he would be residing at the Stamford address until the next day. The defendant inquired regarding the requirement in the address verification letter that the unit be notified of any change of address within five days of such a change. Jenny informed the defendant of his obligation to report, in writing, his residence within five business days of a change. Thereafter, the defendant sent the unit a letter dated Friday, December 28, which was time stamped

as received by facsimile at the unit on Monday, December 31, at 6:48 a.m. because the unit is not open on the weekends. The letter stated: "To Whom It May Concern. This is a notice in writing that the address [in Stamford] will no longer be my residence as of [3 p.m.] on December 28, 2007. New residence address information will be submitted as required by [General Statutes §] 54-254 in writing within five . . . business days." Since the unit did not have a current address for the defendant as of December 28, it listed him as noncompliant on its website. At 12:45 p.m. on December 31, 2007, the unit received another letter from the defendant by facsimile, with a return address in Annapolis, Maryland. The letter states: "This is a notice in writing of my new address. As of approximately [11 a.m.] on December 31, 2007 the Connecticut [d]epartment of [p]ublic [s]afety [s]ex [o]ffender [r]egistry [w]ebsite states I am 'NOT IN COMPLIANCE-Failure to Confirm Address.' However, to note, I sent notice in writing that as of [December 28, 2007] I will no longer be residing at my former address [in Stamford] and am allowed by [§ 54-254] 'five business days' to give notice to the [unit] of my new address. Thus, I was and I am currently in compliance."

At trial, Jenny testified that this letter was received within five business days of December 28, the date the defendant's prior notice had indicated that he would no longer be living in Stamford, but it did not affirmatively state that the return address in Annapolis, Maryland, was the defendant's new place of residence. Jenny further determined that the defendant was not listed on the Maryland sex offender registry as of December 31. Nevertheless, because the defendant had been one of the unit's most compliant registrants for more than five years and the letter did include an address, Jenny decided to "give [the defendant] the benefit of the doubt" and update the registry on December 31 to list the defendant as living out of state, in Annapolis, Maryland.

On January 4, 2008, the defendant registered with the Maryland sex offender registry, listing the same Annapolis address as his place of residence. Subsequently, Maryland police officer Kenneth R. Custer was assigned to conduct a face-to-face address verification. Custer was not able to verify the defendant's presence at the address during his unannounced weekday visits. Custer did verify that the apartment at the address was rented to the defendant's brother and spoke to the defendant by telephone. On January 10, Custer telephoned Jenny and informed her that he "did not believe that [the defendant] was living [at the registered address]" and may be back in Connecticut. On January 15, 2008, Custer determined that the defendant was not living at the Maryland address and began to prepare an application for a warrant for failure to comply with Maryland's sex offender registry law. The warrant was issued on January 17, 2008.[6]

On January 19, Stamford police officers located the defendant at his mother's house in Greenwich. The defendant informed the officers of the following: (1) he had vacated the Stamford address in late December, 2007; (2) he had visited friends and family before arriving at his new place of residence in Annapolis, Maryland on January 2; (3) he was still residing at the Maryland residence; (4) he was just visiting his mother; and (5) he was returning to Maryland the next day with some of his possessions that had been stored at his mother's residence. After this encounter, the defendant returned to Annapolis. Subsequently, the defendant's brother was confronted by his landlord with the claim that a registered sex offender was living with him, at which point the defendant agreed to move to his own apartment.

In late January, after failing in his attempt to rent his own apartment due to his status as a registered sex offender, the defendant decided to move back to Connecticut and stay at his mother's house until he could secure housing in Maryland. On January 28, 2008, he sent notice to the Maryland registry stating that he no longer lived in Maryland. On January 30, 2008, a warrant was issued for the defendant's arrest in Connecticut for failure to register, and he was arrested at his mother's residence later that day. On January 31, 2008, the defendant notified the unit that he was living at his mother's Greenwich address.

The state charged the defendant with two counts of failure to comply with the sex offender registration requirements. In count one the state charged "that on or about December 31, 2007, in the [c]ity of Stamford . . . the [d]efendant failed to notify the [commissioner of public safety] of his change of residence as required by [General Statutes] § 54-250, and in violation of . . . § 54-251 (a)." In count two, the state charged "that on or about January 22, 2008, in the [t]own of Greenwich . . . the [d]efendant failed to notify the [commissioner of public safety] of his change of residence as required by . . . § 54-250, and in violation of . . . § 54-251 (a)."

The defendant, who testified at trial, acknowledged that, when he moved out of the Stamford residence on December 28, he stayed with friends and relatives for a few days before moving to Maryland on January 2, 2008. He also acknowledged that, in January, he twice came back to Connecticut for overnight visits with his mother prior to his eventual return to reside in Connecticut at the end of January. The defendant further testified that, on the basis of his understanding of the statutes, he had five days in which to notify the unit of a change of residence address, and that he was not required to provide notice of temporary or transient overnight visits. The state's theory of prosecution was that, although the defendant had registered in both states, he had given false or fraudulent information

because he was not living where he said he was living.

The trial court, however, did not conclude that the defendant gave false or fraudulent information. Instead, the court, relying *State* v. *Winer*, 112 Conn. App. 458, 465, 963 A.2d 89, cert. denied, 292 Conn. 903, 973 A.2d 107 (2009), held that even temporary overnight visits constitute a change of residence address that trigger notification requirements, and that the statute does not afford a registrant five days of absence from the current residence registry requirement. The trial court observed that the defendant's "interpretation of where he resides is different from that authorized by the statute concerning sex offenders." Citing *Winer*, the court determined that one's "residence" "is where you are at night," and a registrant's "obligation is to indicate where [you are] living at any time not where your official address is but where [you are] actually living." The trial court described the defendant's stay in Maryland as "sporadic," and indicated that when he reregistered in Connecticut on January 31, 2008, "notice was sent substantially after the period in which he had actually moved back to Connecticut." The trial court found that the defendant had moved back with his mother on January 24, 2008. Although that court acknowledged the possibility that the defendant had acted "in good faith" and "misinterpret[ed]" the statute, the court "doubt[ed] it," and convicted the defendant on both counts. This appeal followed. Additional facts will be provided as necessary.

We begin by setting forth the applicable standard of review. "In [a defendant's] challenge to the sufficiency of the evidence . . . [w]hether we review the findings of a trial court or the verdict of a jury, our underlying task is the same. . . . We first review the evidence presented at trial, construing it in the light most favorable to sustaining the facts expressly found by the trial court or impliedly found by the jury. We then decide whether, upon the facts thus established and the inferences reasonably drawn therefrom, the trial court or the jury could reasonably have concluded that the cumulative effect of the evidence established the defendant's guilt beyond a reasonable doubt." (Citation omitted.) *State* v. *Jarrett*, 218 Conn. 766, 770–71, 591 A.2d 1225 (1991). "In assessing the defendant's claim that the evidence against him was insufficient to establish his guilt . . . we must look to the trial court's findings of fact." *State* v. *Cobbs*, 198 Conn. 638, 640, 504 A.2d 514 (1986). "[W]e give great deference to the findings of the trial court because of its function to weigh and interpret the evidence before it and to pass upon the credibility of witnesses." (Internal quotation marks omitted.) *State* v. *Ross*, 251 Conn. 579, 594, 742 A.2d 312 (1999).

"In evaluating evidence that could yield contrary inferences, the trier of fact is not required to accept as

dispositive those inferences that are consistent with the defendant's innocence. . . . The trier [of fact] may draw whatever inferences from the evidence or facts established by the evidence it deems to be reasonable and logical. . . . As we have often noted, proof beyond a reasonable doubt does not mean proof beyond all possible doubt . . . nor does proof beyond a reasonable doubt require acceptance of every hypothesis of innocence posed by the defendant that, had it been found credible by the trier [of fact], would have resulted in an acquittal. . . . On appeal, we do not ask whether there is a reasonable view of the evidence that would support a reasonable hypothesis of innocence. We ask, instead, whether there is a reasonable view of the evidence that supports the [trier of fact's] verdict of guilty." (Citations omitted; internal quotation marks omitted.) *State* v. *DeJesus*, 236 Conn. 189, 195–96, 672 A.2d 488 (1996).

In order to evaluate the defendant's claim that there was insufficient evidence that he had failed to give notice of his change of residence address without undue delay, it is necessary for us to determine the contours of what is required to establish where a sex offender registrant "resides," and the meaning of the phrase "without undue delay" as used in § 54-251 and throughout chapter 969 of the General Statutes, also known as "Megan's Law." The requirements of the statute present a question of statutory construction "over which we exercise plenary review. . . . The principles that govern statutory construction are well established. When construing a statute, our fundamental objective is to ascertain and give effect to the apparent intent of the legislature. . . . In other words, we seek to determine, in a reasoned manner, the meaning of the statutory language as applied to the facts of [the] case, including the question of whether the language actually does apply. . . . In seeking to determine that meaning . . . [General Statutes] § 1-2z directs us first to consider the text of the statute itself and its relationship to other statutes. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered. . . . When a statute is not plain and unambiguous, we also look for interpretative guidance to the legislative history and circumstances surrounding its enactment, to the legislative policy it was designed to implement, and to its relationship to existing legislation and common law principles governing the same general subject matter . . . ." (Internal quotation marks omitted.) *Francis* v. *Fonfara*, 303 Conn. 292, 297, 33 A.3d 185 (2012). "The test to determine ambiguity is whether the statute, when read in context, is susceptible to more than one reasonable interpretation." (Internal quotation marks omitted.) *Weems* v. *Citigroup, Inc.*, 289 Conn. 769, 779, 961 A.2d

349 (2008). "We presume that the legislature did not intend to enact meaningless provisions. . . . [S]tatutes must be construed, if possible, such that no clause, sentence or word shall be superfluous, void or insignificant . . . ." (Internal quotation marks omitted.) *Housatonic Railroad Co.* v. *Commissioner of Revenue Services*, 301 Conn. 268, 303, 21 A.3d 759 (2011).

"[W]hen the statute being construed is a criminal statute, it must be construed strictly against the state and in favor of the accused." *State* v. *Cardwell*, 246 Conn. 721, 739, 718 A.2d 954 (1998). "[C]riminal statutes [thus] are not to be read more broadly than their language plainly requires and ambiguities are ordinarily to be resolved in favor of the defendant." (Internal quotation marks omitted.) *State* v. *Kirk R.*, 271 Conn. 499, 510, 857 A.2d 908 (2004). Rather, "penal statutes are to be construed strictly and not extended by implication to create liability which no language of the act purports to create." (Internal quotation marks omitted.) *State* v. *Woods*, 234 Conn. 301, 308, 662 A.2d 732 (1995). Further, if, after interpreting a penal provision, there remains any ambiguity regarding the legislature's intent, the rule of lenity applies. "It is a fundamental tenet of our law to resolve doubts in the enforcement of a [P]enal [C]ode against the imposition of a harsher punishment." (Internal quotation marks omitted.) *State* v. *Hinton*, 227 Conn. 301, 317, 630 A.2d 593 (1993).

In accordance with § 1-2z, we begin our analysis by reviewing the text of the statute. Section 54-251 (a) provides in relevant part: "Any person who has been convicted . . . of a criminal offense against a victim who is a minor or a nonviolent sexual offense . . . shall . . . whether or not such person's place of residence is in this state, register such person's name, identifying factors, criminal history record, *residence address* and electronic mail address, instant message address or other similar Internet communication identifier, if any, with the Commissioner of Public Safety, on such forms and in such locations as the commissioner shall direct, and shall maintain such registration for ten years . . . . If any person who is subject to registration under this section changes such person's address, such person shall, *without undue delay*, notify the Commissioner of Public Safety in writing of the new address and, if the new address is in another state, such person shall also register with an appropriate agency in that state, provided that state has a registration requirement for such offenders. . . . During such period of registration, each registrant shall complete and return forms mailed to such registrant to verify such registrant's *residence address* . . . ." (Emphasis added.) Section 54-251 (e) sets forth the criminal penalties for violating the statute as follows: "Any person who violates the provisions of subsection (a) of this section shall be guilty of a class D felony, except that, if such person violates the provisions of this section by failing to notify

the Commissioner of Public Safety *without undue delay* of a change of name, address or status or another reportable event, such person shall be subject to such penalty if such failure continues for five business days." (Emphasis added.)

In order to resolve the defendant's claim on appeal that there was not sufficient evidence presented at trial to demonstrate that he failed to notify the unit of a change of his residence address without undue delay, we must determine the meaning of both "residence" and "undue delay" for the purposes of § 54-251 (a).[7] Section 54-251 does not define the terms residence and undue delay. Accordingly, "we turn to General Statutes § 1-1 (a), which provides in relevant part: 'In the construction of the statutes, words and phrases shall be construed according to the commonly approved usage of the language . . . .' We look to the dictionary definition of the [term] to ascertain [its] commonly approved meaning." *R.C. Equity Group, LLC* v. *Zoning Commission*, 285 Conn. 240, 254 n.17, 939 A.2d 1122 (2008); see also *Groton* v. *Mardie Lane Homes, LLC*, 286 Conn. 280, 288, 943 A.2d 449 (2008) ("[i]f a statute or regulation does not sufficiently define a term, it is appropriate to look to the common understanding of the term as expressed in a dictionary" [internal quotation marks omitted]).

We begin with the definition of residence. Black's Law Dictionary (9th Ed. 2009) defines residence as "[t]he act or fact of living in a given place for some time . . . ." Moreover, a resident is "[a] person who lives in a particular place." Id. Webster's Third New International Dictionary (2002) defines residence as "the act or fact of abiding or dwelling in a place for some time: an act of making one's home in a place . . . ."

These definitions are consistent with our recent interpretation of residence for purposes of probate law. In *In the Matter of Bachand*, 306 Conn. 37, 44–45, A.3d (2012), this court recognized that "Connecticut courts have explored what constitutes residency in other probate related contexts, and have established that a person resides in a place where she is physically located for more than a temporary or transient period of time, and where the usual conditions of household life obtain. For example, in the context of establishing residency for the purpose of legally changing one's name, this court has stated that, '[a] resident of a place is one who is an actual stated dweller in that place, as distinguished from a transient dweller there . . . .' *Don* v. *Don*, 142 Conn. 309, 311, 114 A.2d 203 (1955). In the context of determining residency for the appointment of a conservator, '[r]esidence as distinguished from domicil[e] means a temporary residence; but, when the word is used as a limitation of jurisdiction, it must also be distinguished from a place in which one is transiently found. In that restricted sense, residence is the place

where one has temporarily fixed his abode with an intention to depart, which is definite as to purpose, but indefinite as to time.' *Schutte* v. *Douglass*, 90 Conn. 529, 538, 97 A. 906 (1916) (*Beach*, *J.*, concurring); see also R. Folsom & G. Wilhelm, Probate Jurisdiction and Procedure in Connecticut (2d Ed. 2011) § 2:17, p. 2-46 ('In general, [residence] means the place where one actually dwells. It connotes a place of living more permanent than a mere place of visit, but not necessarily so permanent as a domicile. Domicile and residence may be, and usually are, concurrent, but they are not necessarily so.'); R Folsom & G. Wilhelm, supra, p. 2-48 ('[a] person resides in the place where the usual conditions of household life obtain')." The use of the wording "for some time" in both the Black's Law Dictionary and the Webster's Third New International Dictionary definitions of residence strongly supports such a result. Consistent with this precedent, we conclude that residence means the act or fact of living in a given place for some time, and the term does not apply to temporary stays.

The state, however, urges us to accept the definition of residence contained in Black's Law Dictionary (8th Ed. 2004) that "[r]esidence usu[ally] just means bodily presence as an inhabitant in a given place . . . ." The state indicates that this definition is in line with the unit's interpretation that residence is where an individual sleeps at night or his or her " 'current whereabouts.' " Further, the state argues that the trial court properly adopted the Appellate Court's definition of residence contained in *State* v. *Winer*, supra, 112 Conn. App. 465, to the effect that residence is wherever one dwells, no matter how temporarily. We disagree.

*State* v. *Winer*, supra, 112 Conn. App. 458, involved a defendant who was homeless, after just having been released from prison. The defendant therein was convicted under the same statute involved in this case, § 54-251 (a), for failing to notify the unit of a change of address. Id., 462–63. In the Appellate Court, the defendant challenged the sufficiency of the evidence, claiming that "it was impossible for him to comply with the statute because he did not have a residence address." Id., 464. At his trial, a state trooper from the unit testified "that when newly released registrants do not have an address, they provide the unit with daily updates on their location until they find housing so that the unit's records always reflect the registrant's current location." Id., 462. The Appellate Court made specific note of the trooper's testimony: "In fact, [the state trooper] testified that newly released registrants who have not yet secured housing typically update the unit daily as to their location. He stated that some registrants indicate that they are homeless but are still looking for a place to live. He has had registrants indicate that they are sleeping under a bridge or that they use the police department as an address and give daily updates from that location indicating that they are still looking for

housing. In this way, [the trooper] stated, the unit is aware of the registrant's approximate location and that the registrant is still searching for a place to live." Id., 465. The Appellate Court affirmed the conviction, concluding that the defendant's residence "was wherever he was dwelling, no matter how temporary a situation." Id.

Unlike the situation of a homeless registrant like the defendant in *Winer*, where the unit may expect daily updates of a registrant's location, a registrant who has a residence address is required only to verify that address, in writing, "every ninety days after such person's initial registration date"; General Statutes § 54-257 (c); and to provide written notice of a change of that "residence address . . . without undue delay . . . ." General Statutes § 54-251 (a). We conclude, therefore, that *Winer* is distinguishable on its facts.[8] Indeed, we agree with our sister state of Massachusetts that "the inherently transitory nature of homelessness makes it difficult to apply to homeless sex offenders the same considerations of residence applied to offenders who are not homeless." *Commonwealth* v. *Bolling*, 72 Mass. App. 618, 626, 893 N.E.2d 371 (2008).

Likewise, we reject the proposed definitions offered by the state to the effect that a residence is where an individual is at the time because this definition would lead to absurd results. For example, if a registrant were in the process of moving from Connecticut to California and was driving a car across the country, pursuant to the state's definition, he would be required to fax the registry every night when he stopped at a motel, even though the registry would be closed if he stopped late at night, and he would possibly have left his motel location before the registry opened in the morning. The absurdity of this scenario is exacerbated if the registrant were traveling on a weekend, when the registry is closed. He would be required to send two separate changes of address to an office where no one could record those addresses until he had already left the location. We must interpret the statute so that it does not lead to absurd or unworkable results. See *State* v. *Courchesne*, 296 Conn. 622, 710, 998 A.2d 1 (2010) ("it is axiomatic that those who promulgate statutes . . . do not intend to promulgate statutes . . . that lead to absurd consequences or bizarre results" [internal quotation marks omitted]). The definition of residence we adopt today furthers the purpose of Megan's Law, which is to allow the unit to keep track of the registrant's location, while avoiding the absurd results suggested in our previous examples. See *State* v. *T.R.D.*, 286 Conn. 191, 220, 942 A.2d 1000 (2008) ("[t]he goal of Megan's Law is to alert the public by identifying potential sexual offender recidivists when necessary for public safety" [internal quotation marks omitted]).

Having clarified the definition of residence, we now

turn to the definition of the phrase "without undue delay." The fourth sentence of § 54-251 (a) sets forth an affirmative obligation for registrants who, like the defendant, change their address. Section 54-251 (a) provides in relevant part: "If any person who is subject to registration under this section changes such person's address, such person shall, without undue delay, notify the Commissioner of Public Safety in writing of the new address and, if the new address is in another state, such person shall also register with an appropriate agency in that state, provided that state has a registration requirement for such offenders. . . ." Subsection (e) of § 54-251 sets forth criminal penalties for violating § 54-251 (a): "Any person who violates the provisions of subsection (a) of this section shall be guilty of a class D felony, except that, if such person violates the provisions of this section by failing to notify the Commissioner of Public Safety without undue delay of a change of name, address or status or another reportable event, such person shall be subject to such penalty if such failure continues for five business days."

The phrase without undue delay is not defined in § 54-250, which sets forth definitions of certain key terms in Megan's Law, nor it is defined in § 54-251. As we have stated previously herein, when a term is not defined by statute, we turn to the dictionary to ascertain the common usage of the term. The terms "undue" and "delay" are defined with substantial similarity in a number of dictionaries, each referring to an unwarranted postponement. For example, Black's Law Dictionary (9th Ed. 2009) defines undue as "[e]xcessive or unwarranted," and defines delay as "[t]he act of postponing or slowing . . . ." Webster's Third New International Dictionary (2002) defines undue as "exceeding or violating propriety or fitness: excessive, immoderate, unwarranted," and defines delay as "to put off: prolong the time of or before: postpone, defer . . . ." Accordingly, the common usage of the term undue delay appears to indicate an unwarranted or excessive postponement.

Indeed, the language of § 54-251 (e) also illuminates the meaning of the phrase undue delay. Section 54-251 (e) provides that a person who fails to notify the commissioner of public safety of a change of name, address status or another reportable event without undue delay shall be "subject to such penalty *if such failure continues for five business days.*" (Emphasis added.) The imposition of a penalty if the failure continues for five business days indicates that the legislature intended for registrants to have a reasonable amount of time within which to notify the unit of a reportable event, and that criminal penalties would be imposed if the failure to register continued for five business days after the aforesaid reasonable amount of time. For instance, if, in the example presented previously of a registrant traveling cross-country, that registrant was

involved in an automobile accident and hospitalized in intensive care for several weeks, it would be difficult for him to comply with the requirements of the registry statute. In that situation, the phrase "without undue delay" could refer to the period after he was released from the hospital and had an opportunity to establish residence. Certainly, in that situation, it would be unjust to require the offender to register within five business days of changing his address.

The language of § 54-251 (a) indicates that the legislature did not intend to adopt a bright-line definition for undue delay applicable to every situation but, rather, intended to make allowance for the vagaries of individual conditions. We conclude, however, that if there are no extenuating circumstances, as in the present case, based on the common usage of the terms and the related statutory language, a registrant is obliged to notify the unit of a reportable event, such as a change of residence address, on the next business day. A violation of § 54-251 (a), however, does not subject a registrant to any criminal penalty. Pursuant to § 54-251 (e), a registrant will be guilty of a class D felony only if the registrant fails to notify the registry within five business days of the obligation to do so. This rule furthers the purpose of the statute to advise the registry, within a reasonable time, of any change of address. It is also consistent with our rule of statutory construction to strictly construe the terms of a criminal statute against the state and in favor of the defendant.

The state claims that the phrase without undue delay means without excessive delay, but that a delay of five business days, under any circumstance, is excessive and occasions felony liability. In support of its claim, the state asserts that the phrase without undue delay is clarified by the language in § 54-251 (e) "if such failure continues for five business days." We disagree. The state's construction would render the phrase without undue delay in that statute superfluous. We presume that "the legislature did not intend to enact meaningless provisions. . . . [S]tatutes must be construed, if possible, such that no clause, sentence or word shall be superfluous, void or insignificant . . . ." (Internal quotation marks omitted.) *Semerzakis* v. *Commissioner of Social Services*, 274 Conn. 1, 18, 873 A.2d 911 (2005).

In further support of its claim, the state asserts that every defendant who is required to register as a sex offender is given an "Advisement of Registration Requirements" form that specifically states: "You must initially register within . . . three days following your date of release or without undue delay (within [five] business days) of residing in this state—([General Statutes §] 54-253) . . . . You must register as required by law, Monday through Friday, between [9 a.m. and 3 p.m.], except on a day observed as a federal or state holiday." As a result, the state claims that the phrase

without undue delay is defined as five business days. We are not persuaded. "Ordinarily, this court affords deference to the construction of a statute applied by the administrative agency empowered by law to carry out the statute's purposes. . . . [T]he traditional deference accorded to an agency's interpretation of a statutory term is unwarranted [however] when the construction of a statute . . . has not previously been subjected to judicial scrutiny [or to] . . . a governmental agency's time-tested interpretation . . . ." (Citation omitted; internal quotation marks omitted.) *Dept. of Public Safety* v. *Freedom of Information Commission*, 298 Conn. 703, 716–17, 6 A.3d 763 (2010). An agency form, to the extent it "contains an interpretation not adopted pursuant to formal rule-making or adjudicatory procedures," is no exception. *Hasselt* v. *Lufthansa German Airlines*, 262 Conn. 416, 432, 815 A.2d 94 (2003). In the present case, the state does not specifically assert that the unit's interpretation is subject to deference because it is time-tested, nor previously subjected to judicial scrutiny. "Moreover, because we conclude that the statute is not [vague or] ambiguous, the [agency's] interpretation would not prevail in any event." *Vincent* v. *New Haven*, 285 Conn. 778, 784 n.8, 941 A.2d 932 (2008), citing *State Medical Society* v. *Board of Examiners in Podiatry*, 208 Conn. 709, 719, 546 A.2d 830 (1988) (rule of deference applies only when agency "has consistently followed its construction over a long period of time, the statutory language is ambiguous, and the agency's interpretation is reasonable"). Accordingly, we disagree with the state that the phrase without undue delay must always mean within five business days.

We now apply the definitions of the word residence and the phrase without undue delay to the facts of the present case found by the trial court, in order to determine if there was sufficient evidence presented to demonstrate that the defendant had violated the requirements of the sex offender registry in the manner in which the state alleged. See *State* v. *Robert H.*, 273 Conn. 56, 82–83, 866 A.2d 1255 (2005) (concluding state's theory of guilt relevant to sufficiency of evidence review). The issue presented for us to decide is whether there was sufficient evidence to prove that the defendant failed to notify the registry of his changes of "residence address . . . without undue delay"; General Statutes § 54-254 (a); and that "such failure continue[d] for five business days." General Statutes § 54-251 (e).

The first count of the information charged that the defendant, on or about December 31, 2007, failed to notify the commissioner of public safety of his change of residence address as required by § 54-250, and in violation of § 54-251 (a). The trial court determined that the defendant moved out of his Stamford residence on December 28, 2007. On that same day, the defendant notified the registry, in writing, that Stamford was no

longer his place of residence. Thereafter, on December 31, 2007, he notified the registry of the address of the apartment in Annapolis, Maryland that he claimed was his new place of residence.[9] The trial court determined that the defendant had, in fact, registered with the Maryland authorities on January 4. The trial court further determined that "[t]he defendant moved [back] to his mother's house on [January] 24," a finding inconsistent with the state's theory of the case that the defendant never moved to Maryland but instead resided with his mother during the entire period at issue, and consistent with the defendant's claim that he moved to Annapolis, Maryland on January 2, 2008.[10] In light of the definition of residence that we have adopted, as the place where one lives for some time, not including temporary stays, the record reveals that the trial court accepted the defendant's claim that he resided in Stamford until Friday, December 28, 2007, traveled on December 29, 30, 31, and January 1, and took up residence in Annapolis, Maryland no later than Friday, January 4, 2008, which was the fourth business day after the last day he resided in Stamford. He notified the registry of his change of residence address from Stamford without undue delay—indeed, by facsimile letter on Friday, December 28, before the first business day after the reportable event—further notified the registry of his residence in Maryland without undue delay—indeed, by all accounts in advance of his residence in Maryland—and was not required by § 54-251 to notify the registry of his temporary residence while traveling.[11] There was, therefore, insufficient evidence to convict the defendant on count one of the information. Although we reverse the defendant's conviction regarding count one and remand the case for further proceedings to give the state an opportunity to retry the defendant, we question whether, given these facts, the defendant could be found guilty.

In count two of the information, the defendant was accused of failure to notify the commissioner of public safety of a change of residence address on or about January 22, 2008, as required by § 54-250 and in violation of § 54-251 (a). The trial court found that the defendant moved from his brother's apartment in Maryland and into his mother's house in Greenwich on Thursday, January 24, 2008. On Monday, January 28, 2008, the defendant sent notice of his change of residence to the Maryland registry. On January 31, 2008, the defendant notified the unit of his residence at his mother's house. The defendant was required under § 54-251 (a) to notify the unit of his change of address by the end of the first business day following the change of residence, namely, Friday, January 25, unless the fact finder determined extenuating circumstances rendered that requirement unreasonable. It is uncontested that no extenuating circumstances existed. Under the penalty provisions of Megan's Law, however, the defendant is guilty of a felony only if his failure to report without undue delay

"continue[d] for five business days." General Statutes § 54-251 (e). The second business day was Monday, January 28; the fifth business day was Thursday, January 31. Therefore, the defendant could avoid criminal liability by notifying the unit of a January 24 change of residence before the registry closed on Thursday, January 31, 2008, which he did. Accordingly, the defendant notified the registry within a sufficient time period to avoid criminal liability because not more than five full business days passed after the reportable event. We conclude, therefore, that there was insufficient evidence to convict the defendant under count two of the information. Again, we afford the state the opportunity to retry the defendant if it wishes to do so on another theory. On the basis of these facts, however, we question whether the state likely can secure a conviction.[12]

The judgment is reversed and the case is remanded with direction to vacate the defendant's convictions of failing to comply with the sex offender registry requirements under § 54-251.

In this opinion the other justices concurred.

* The listing of the justices reflects their seniority status on this court as of the date of oral argument.

[1] The defendant appealed from the judgment of the trial court to the Appellate Court, and we transferred the appeal to this court pursuant to General Statutes § 51-199 (c) and Practice Book § 65-2.

[2] General Statutes § 54-251 provides in relevant part: "(a) Any person who has been convicted . . . of a criminal offense against a victim who is a minor or a nonviolent sexual offense, and is released into the community on or after October 1, 1998, shall, within three days following such release or, if such person is in the custody of the Commissioner of Correction, at such time prior to release as the commissioner shall direct, and whether or not such person's place of residence is in this state, register such person's name, identifying factors, criminal history record, residence address and electronic mail address, instant message address or other similar Internet communication identifier, if any, with the Commissioner of Public Safety, on such forms and in such locations as the commissioner shall direct, and shall maintain such registration for ten years . . . . If any person who is subject to registration under this section changes such person's address, such person shall, without undue delay, notify the Commissioner of Public Safety in writing of the new address and, if the new address is in another state, such person shall also register with an appropriate agency in that state, provided that state has a registration requirement for such offenders. . . . During such period of registration, each registrant shall complete and return forms mailed to such registrant to verify such registrant's residence address . . . .

"(e) Any person who violates the provisions of subsection (a) of this section shall be guilty of a class D felony, except that, if such person violates the provisions of this section by failing to notify the Commissioner of Public Safety without undue delay of a change of name, address or status or another reportable event, such person shall be subject to such penalty if such failure continues for five business days."

[3] The defendant also claims that § 54-251 is unconstitutionally vague as applied to his conduct in the present case. We do not address this claim in view of our conclusion that the defendant's convictions must be vacated for lack of sufficient evidence.

[4] General Statutes (Rev. to 2001) § 53a-196d provides: "(a) A person is guilty of possessing child pornography when he knowingly possesses child pornography, as defined in subdivision (13) of section 53a-193. Possession of a photographic or other visual reproduction of a nude minor for a bona fide artistic, medical, scientific, educational, religious, governmental or judicial purpose shall not be a violation of this subsection.

"(b) Possessing child pornography is a class D felony."

[5] General Statutes (Rev. to 2001) § 53a-189a provides: "(a) A person is

guilty of voyeurism when, with malice or intent to arouse or satisfy the sexual desire of such person or any other person, such person knowingly photographs, films, videotapes or otherwise records the image of another person (1) without the knowledge and consent of such other person, (2) while such other person is not in plain view, and (3) under circumstances where such other person has a reasonable expectation of privacy.

"(b) Voyeurism is a class A misdemeanor."

[6] These charges were later nolled on March 29, 2010.

[7] In view of the fact that the initial requirement indicates that the registrant must list his place of residence, it is evident from a reading of § 54-251 that the legislature intended "residence address" and "address" to be synonymous with "place of residence," or more precisely, to denote the physical description of where the registrant resides. Thus, the primary issue is what is required to establish where a person resides under § 54-251.

[8] We express no opinion on the Appellate Court's conclusion in *State* v. *Winer*, supra, 112 Conn. App. 458, as it is inapplicable to the present case.

[9] Although the officer had some question regarding the form of the letter, it clearly indicates a new address in Maryland for the defendant.

[10] Similarly, the trial court concluded that "[the defendant] did not keep either the Connecticut registration office or the Maryland registration office accurately informed of where he was living during that period of time except to say he was living in [Stamford] until [December 28, 2007] and then he was living in Maryland until . . . sometime after he moved back to [Greenwich]."

[11] We note that our construction of Megan's Law does not permit an offender to travel indefinitely from one location to another in an effort to avoid the registry. Section 54-253 (d), requiring nonresidents subject to sex offender registration in their state of residence to notify Connecticut's registry of their temporary residence in our state if they travel to this state for recurring periods of less than five days, suggests that the concept of travel has limits. Indeed, if the registrant leaves the place of residence and does not notify the unit of a new residence address within five business days, in the absence of extraordinary circumstances, he will no longer be considered to be traveling and will be required to follow the approach approved of in *Winer*. In view of the fact finder's acceptance of the defendant's claim that he was traveling from the time he left Stamford on December 28, and until he arrived at his residence in Maryland no later than January 4, 2008, the fourth business day after he ended his residence in Stamford, the period between residences is a travel period and the location or locations where he spent those nights were temporary residences, for which § 54-251 does not require registry notification.

[12] We have consistently held that, when we establish a newly articulated standard in a statute, the defendant may be retried without violating the constitution's double jeopardy provision. See *State* v. *Salamon*, 287 Conn. 509, 547–48, 949 A.2d 1092 (2008) (defendant's kidnapping conviction remanded for determination of "[w]hether the movement or confinement of the victim is merely incidental to and necessary for another crime"); see also *State* v. *Sanseverino*, 291 Conn. 574, 969 A.2d 710 (2009), overruled in part by *State* v. *DeJesus*, supra, 218 Conn. 437, superseded in part after reconsideration by *State* v. *Sanseverino*, 291 Conn. 574, 969 A.2d 710 (2009). Double jeopardy concerns do not mandate an acquittal when the evidence presented was sufficient to establish the crime under the standard applicable at the time of trial, but not under the newly articulated standard, because any insufficiency in proof may well have resulted from the change in the law. In view of the fact that we have now clarified the meaning of the word "residence" and the phrase "without undue delay" in the statute, and because the state's evidence was sufficient under the old standard, it is, therefore, not a violation of the constitution's double jeopardy provision to allow the defendant to be retried under the new standard. See *State* v. *DeJesus*, supra, 436 ("[T]he double jeopardy concerns that preclude the [state] from having a second opportunity to build a case against a defendant when it failed to do so the first time are not present . . . . Any insufficiency in proof was caused by a subsequent change in the law . . . [and] not the [state's] failure to muster evidence." [Internal quotation marks omitted.]).