

STATE OF RHODE ISLAND

WASHINGTON, SC.

SUPERIOR COURT

(FILED: February 12, 2026)

STATE OF RHODE ISLAND

v.

CRISTIAN GARCIA

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W2-2025-0156A

DECISION

K. RODGERS, J. Defendant Cristian Garcia has been charged by way of Criminal Information with failing to register certain information as required under the Sexual Offender Registration and Community Notification Act (the Act). Defendant now moves to dismiss the Criminal Information pursuant to Rule 9.1 of the Superior Court Rules of Criminal Procedure.

Defendant contends that the Criminal Information fails to demonstrate probable cause that Defendant committed a criminal offense because his failure to notify the South Kingstown Police Department (SKPD) of an alleged change in his telephone number does not constitute a crime under the Act. (Def.’s Mem. in Supp. of Mot. to Dismiss (Def.’s Mem.) 2-6.) Defendant further contends that the Criminal Information lacks sufficient detail identifying when the alleged change to Defendant’s registration information occurred and that, in any event, it fails to demonstrate that Defendant’s telephone number changed. *Id.* at 7-8.

The State has objected to Defendant’s motion, asserting that the Act criminalizes a person’s failure to provide all the required information set forth in the Act. (State’s Obj. to Def.’s Mot. to Dismiss (State’s Obj.) 2-4.) The State further maintains that Defendant, in possessing two cell phones on his person, violated the Act by failing to immediately notify local law enforcement of the change to his registration information. *Id.* at 6.

I

Facts and Travel

The following facts are gleaned from the Criminal Information and exhibits appended thereto.

On October 27, 2016, Defendant was convicted of one count of sex trafficking of a child and one count of conspiracy to commit sex trafficking of a child in federal court. (Crim. Info., Ex. 11 (Def.'s Criminal History), at 10.) Defendant registered as a sexual offender with the SKPD on August 12, 2024.¹ *Id.*, Ex. 14 (Notice of Duty to Reg.), at 1-3.

On October 12, 2024, SKPD Officer Ehren Meisinger notified Detective Matthew White, an SKPD detective charged with registering and maintaining all records for sex offenders residing in South Kingstown, that he had observed Defendant walking on Main Street in South Kingstown “carrying and utilizing two cell phones.” *Id.*, Ex. 8 (Det. White’s Narrative.). Four days later, on October 16, 2024, Det. White located Defendant again walking on Main Street. *Id.* Det. White stopped Defendant and informed him that he received information regarding Defendant’s possession of two cell phones. *Id.* Defendant produced one black iPhone that he was holding and a second black iPhone from his pants pocket. *Id.* Defendant stated that he utilized the second iPhone only for its wireless internet capabilities. *Id.* Det. White asked Defendant for the phone number associated with the second iPhone and Defendant recited it from memory. *Id.* When Det. White dialed that phone number from his own cell phone, the second iPhone began ringing and it displayed Det. White’s cell phone number on the screen. *Id.* Det. White concluded from this

¹ Defendant does not contest that he has an ongoing duty to register as a sex offender at all material times pertinent to the instant Criminal Information.

exercise that the second iPhone in Defendant's possession was an operable cell phone capable of receiving phone calls. *Id.*

Defendant stated that he was borrowing the second iPhone from a friend and that the owner of the second iPhone routinely permitted Defendant to utilize it for extended periods for internet access. *Id.* Det. White commented that, although Defendant reported to SKPD by phone that he would be staying in Providence on each of the previous three days, Defendant failed to inform SKPD of "the new phone number" during any of those phone calls. *Id.* Defendant responded that he was merely borrowing the second iPhone. *Id.* At Det. White's request, Defendant consented to showing Det. White the second iPhone "so that [Det. White] could see if [Defendant] was utilizing it for communication." *Id.* Det. White then observed a text message thread that Defendant had been carrying on with another individual, noting that the thread was "of a sexual nature." *Id.* Det. White determined from the text messages he observed that Defendant was "utilizing that phone for more than [internet access] and using it for communication." *Id.*

Based on this determination, as well as Det. White's belief that Defendant willfully disregarded his duties and obligations as a sexual offender required to register under the Act, Det. White applied for and obtained an arrest warrant on October 18, 2024. *Id.*, Ex. 9 (Det. White's Aff. and Arrest Warrant). Defendant was arrested in Providence on October 22, 2024. *Id.*, Ex. 4 (Patrolman Samuel Duckworth's Narrative). Defendant was subsequently charged with one count of failure to register as a sexual offender in violation of G.L. 1956 §§ 11-37.1-3, 11-37.1-4, 11-37.1-9, and 11-37.1-10.

II

Standard of Review

Rule 9.1 of the Superior Court Rules of Criminal Procedure as well as G.L. 1956 § 12-12-1.7 provide the mechanism for challenging probable cause on the face of a criminal information package. A defendant charged by way of criminal information may “move to dismiss on the ground that the information and exhibits appended thereto do not demonstrate the existence of probable cause to believe that the offense charged has been committed or that the defendant committed it.” Super. R. Crim. P. 9.1; *see also* § 12-12-1.7.

In considering a Rule 9.1 motion, the trial justice’s review of whether probable cause exists is limited to “the four corners of the information package.” *State v. Young*, 941 A.2d 124, 128 (R.I. 2008). “[T]he probable-cause standard applied to a Rule 9.1 motion to dismiss is identical to the traditional probable-cause standard to support an arrest.” *State v. Peters*, 172 A.3d 156, 159 (R.I. 2017) (citing *State v. Reed*, 764 A.2d 144, 146 (R.I. 2001)). “[P]robable cause to arrest exists when the facts and circumstances within the police officer’s knowledge at the time of arrest and of which he or she has reasonably trustworthy information are sufficient to lead a reasonable person to conclude that a crime has been committed and that the person to be arrested committed it.” *Reed*, 764 A.2d at 146. “When ruling on a motion to dismiss, the trial justice must afford the state ‘the benefit of every reasonable inference in favor of finding probable cause.’” *Peters*, 172 A.3d at 159 (quoting *Young*, 941 A.2d at 128).

III

Analysis

“It has been long recognized that criminal statutes must provide for a penalty and a conviction for violation of a statute containing no penalty cannot stand.” *State v. DelBonis*, 862

A.2d 760, 767 (R.I. 2004) (internal quotation omitted). Accordingly, whether there existed probable cause to arrest Defendant on October 22, 2024 is dependent on whether Defendant’s failure to report certain information required under § 11-37.1-3(e) is subject to a penalty pursuant to § 11-37.1-10 and therefore constitutes a crime. Thus, the instant motion requires this Court to delve into the language of the Act to determine the scope of the conduct criminalized by the Legislature and the existence of a corresponding penalty.

A

Statutory Interpretation

When interpreting a statute, the “ultimate goal [of the Court] is to give effect to the General Assembly’s intent.” *Olamuyiwa v. Zebra Atlantek, Inc.*, 45 A.3d 527, 534 (R.I. 2012) (internal quotation omitted). “It is well settled that when the language of a statute is clear and unambiguous, this Court must interpret the statute literally and must give the words of the statute their plain and ordinary meanings.” *Powers v. Warwick Public Schools*, 204 A.3d 1078, 1086 (R.I. 2019) (internal quotation omitted). In examining an unambiguous statute, “there is no room for statutory construction and [the Court] must apply the statute as written.” *State v. DiCicco*, 707 A.2d 251, 253 (R.I. 1998) (internal quotation omitted). “If, however, [this Court is] presented with an ambiguous statute—one that contains a word or phrase susceptible of more than one meaning[]—then this Court will employ [its] well-established maxims of statutory construction in an effort to glean the intent of the Legislature.” *Balmuth v. Dolce for Town of Portsmouth*, 182 A.3d 576, 580 (R.I. 2018) (internal quotation omitted).

The State charged Defendant with one count of failure to register as a sexual offender, alleging that Defendant, “being a person who has been convicted of an offense that requires registration, did change his phone number and failed to notify the South Kingstown Police

Department prior,” in violation of §§ 11-37.1-3, 11-37.1-4, 11-37.1-9, and 11-37.1-10. (Crim. Info.

1.)

Section 11-37.1-3 provides in pertinent part:

“(a) Any person who, in this or any other jurisdiction: (1) has been convicted of a criminal offense against a victim who is a minor . . . shall be required to *register his or her current address* with the local law enforcement agency having jurisdiction over the city or town in which the person having the duty to register resides for the time period specified in § 11-37.1-4.

“ . . .

“(e) **Registration information.** In addition to the requirements of subsections (a) through (d) of this section, the person required to *register* under this section shall *provide* the local law enforcement agency the following information:

“ . . .

“(10) Any and all telephone numbers *of the person.*” Section 11-37.1-3 (emphasis added).

Additionally, the portion of § 11-37.1-4 relevant to the instant action provides:

“(a) **Annual registration.** Any person required to register under § 11-37.1-3(a)(1) . . . shall *annually register* with the local law enforcement agency having jurisdiction over the city or town in which the person having the duty to register resides for a period of ten (10) years from the expiration of sentence for the offense and shall *verify his or her address* with the agency on a quarterly basis for the first two (2) years of the period” Section 11-37.1-4 (emphasis added).

Section 11-37.1-9 provides in pertinent part:

“(e) **Duty of person required to register; changes in required registration information.** A person who has been convicted of an offense that requires registration under this chapter shall immediately *notify* the local law enforcement agency having jurisdiction where the person is residing, is employed, or attending a public or private educational institution of any changes to his or her required registration information as provided in § 11-37.1-3(e).” Section 11-37.1-9(e) (emphasis added).

Finally, § 11-37.1-10 provides in pertinent part:

“(a) Any person who is required to register or verify his or her address or give notice of a change of address or residence who knowingly fails to do so shall be guilty of a felony and, upon conviction, be imprisoned not more than ten (10) years, or fined not more than ten thousand dollars (\$10,000), or both.” Section 11-37.1-10(a).

Defendant directs this Court to § 11-37.1-10(a) in support of his argument that a change in a telephone number is not subject to a criminal penalty. Specifically, Defendant asserts that the penalty set forth in § 11-37.1-10(a) applies to instances in which a person required to register fails to either (1) “register or verify his or her address” or (2) “give notice of a change of address or residence[.]” (Def.’s Mem. 2.) The State, on the other hand, contends that § 11-37.1-10(a) must be read to penalize three types of conduct: (1) failure to register, (2) failure to verify one’s address, and (3) failure to give notice of a change of address or residence, and that by failing to provide the telephone number assigned to the second iPhone with the SKPD, Defendant “failed to register.” (State’s Obj. 2-3.)

The plain and ordinary meaning of § 11-37.1-10(a), particularly the word “register” therein, is reasonably susceptible to both interpretations offered, and the provision is therefore ambiguous. Accordingly, the Court now turns to the rules of statutory construction.

1

Rules of Statutory Construction

As discussed earlier, if a statute is ambiguous, “this Court will employ [its] well-established maxims of statutory construction in an effort to glean the intent of the Legislature.” *Balmuth*, 182 A.3d at 580 (internal quotation omitted). In doing so, this Court is charged with “examin[ing] the statute in its entirety to determine the intent and purpose of the Legislature.” *Tarzia v. State*, 44 A.3d 1245, 1252 (R.I. 2012) (internal quotation omitted). Additionally, this Court must

“distinguish between remedial legislation and a penal statute.” *DelBonis*, 862 A.2d at 766. “Although it is appropriate to construe a remedial statute in its ‘broad and general sense,’ when considering a statute that is penal in nature, the identical language must be read narrowly and the ‘defendant must be given the benefit of any reasonable doubt as to whether the act charged is within the meaning of the statute.’” *Id.* (quoting *State v. Carter*, 827 A.2d 636, 643-44 (R.I. 2003)). “[W]hen two constructions of a criminal statute are possible, the rule of lenity dictates that the less harsh construction controls.” *DelBonis*, 862 A.2d at 766 (citing *Carter*, 827 A.2d at 644).

Further, “[i]t is well settled that the power to define crimes rests not with [the courts], but with the General Assembly.” *State v. Maxie*, 187 A.3d 330, 341 (R.I. 2018). As our Supreme Court has explained, “no authority exists for . . . the trial court in a criminal case to supplement or to amend a statute enacted by the General Assembly.” *Id.* (internal quotation omitted). This Court “simply cannot construe that which is not there to be construed.” See *id.*

Finally, “[t]he Legislature is presumed to know the state of existing law when it enacts or amends a statute.” *DelBonis*, 862 A.2d at 768-69 (internal quotation omitted).

2

The Alleged Criminal Conduct Is Not Subject to a Criminal Penalty

It is undisputed that §§ 11-37.1-3, 11-37.1-4, and 11-37.1-9 impose certain duties upon persons who are required to register, and that § 11-37.1-10 is the only penalty provision within the Act. The General Assembly has expanded the reporting duties of a person subject to the Act over the last thirty years, but the penalty provision has not evolved in a corresponding fashion.

Since 1996, a person convicted in Rhode Island or any other jurisdiction of a criminal offense against a minor, as defined in the Act,² has been required to register his or her address with law enforcement, annually register for the entire duration of his or her registration period, and verify his or her address quarterly for the first two years of his or her registration period. *See* §§ 11-37.1-3 and 11-37.1-4(a), as enacted by P.L. 1996, ch. 104, § 1. Over time, the General Assembly has amended the Act to include, for instance, a duty to provide law enforcement with a notice of change of address – first applicable to interstate changes of address, *see* § 11-37.1-9, as enacted by P.L. 1996, ch. 104, § 1; then to include changes of address to a different city or town within Rhode Island within ten days, *see* § 11-37.1-9(d), as amended by P.L. 1999, ch. 255, § 1; next to reducing the notification period for a change of address from one Rhode Island municipality to another within twenty-four (24) hours, *see* § 11-37.1-9(d), as amended by P.L. 2003, ch. 170, § 1; and finally to include changes of address within a single Rhode Island city or town within twenty-four hours, *see* § 11-37.1-9(d), as amended by P.L. 2008, ch. 202, § 1. By 2008, then, a person required to register had an obligation to notify law enforcement of any change of address or residence within twenty-four hours, whether that change be within a single municipality, from one city or town to another city or town within Rhode Island, or between Rhode Island and any other state. Section 11-37.1-9(d), as amended by P.L. 2008, ch. 202, § 1.

A person's obligation to verify his or her address, and the manner in which verification is satisfied, has at all material times been governed by § 11-37.1-8 from 1996 to the present.

Since the Act became effective in 1996, § 11-37.1-10(a) has penalized a person who knowingly fails to register or verify his or her address. Section 11-37.1-10(a) as enacted by P.L.

² The Act includes numerous other circumstances which require a person to register, *see* § 11-37.1-3, none of which require further elucidation in the context of Defendant's Motion to Dismiss.

1996, ch. 104, § 1. In 2003, the General Assembly increased the maximum sentence and maximum fine that could be imposed if a person knowingly fails to register or verify his or her address. Section 11-37.1-10(a), as amended by P.L. 2003, ch. 162, § 1; P.L. 2003, ch. 170, § 1. In 2008, § 11-37.1-10(a) was amended to include a penalty if a person knowingly fails to give notice of a change of address or residence, while the balance of that subsection remained the same. Section 11-37.1-10(a), as amended by P.L. 2008, ch. 202, § 1. In 2015, the General Assembly saw fit to remove certain commas from § 11-37.1-10(a) in the description of the conduct that is subject to a penalty; *see* P.L. 2015, ch. 219, § 1; P.L. 2015, ch. 240, § 1; that subsection remains the same today.

Effective July 1, 2020, § 11-37.1-3 was amended to include a litany of additional information that a person required to register “shall provide” to the local law enforcement agency. *See* § 11-37.1-3, as amended by P.L. 2018, ch. 157, § 1; P.L. 2018, ch. 259, § 1.³ Included among that additional information identified in § 11-37.1-3(e), entitled “Registration information,” is “[a]ny and all telephone numbers of the person.” Section 11-37.1-3(e)(10). Section 11-37.1-9 was also amended in that same legislative act to cross-reference the additional registration information required by § 11-37.1-3(e). *See* § 11-37.1-9, as amended by P.L. 2018, ch. 259, § 1. As of July 1, 2020, then, a person required to register was required to “*immediately notify* the local law enforcement agency . . . of any changes to his or her required registration information as provided in § 11-37.1-3(e).” Section 11-37.1-9(e), as amended by P.L. 2018, ch. 157, § 1; P.L. 2018, ch. 259, § 1.

³ In 2019, the General Assembly changed the official effective date of this amendment from July 1, 2019 to July 1, 2020. *See* § 11-37.1-3, as amended by P.L. 2019, ch. 28, §§ 1, 2; P.L. 2019, ch. 31, §§ 1, 2.

Despite the significant additional information the General Assembly now requires be provided to law enforcement in § 11-37.1-3(e), and the mandate to immediately notify law enforcement of any changes to such information pursuant to § 11-37.1-9(e), the General Assembly did not confer a corresponding penalty for failing to comply with §§ 11-37.1-3(e) or 11-37.1-9(e). The penalty provision in § 11-37.1-10(a) remains as it did prior to the additional registration information becoming statutorily required:

“Any person who is required to *register or verify his or her address* or give *notice of a change of address or residence* who knowingly fails to do so shall be guilty of a felony and, upon conviction, be imprisoned not more than ten (10) years, or fined not more than ten thousand dollars (\$10,000), or both.” Section 11-37.1-10(a) (emphasis added).

Section 11-37.1-10(a) does not penalize an individual for failing to notify a local law enforcement agency of a change in phone number. Instead, even after amending the Act to require certain additional information be provided to local law enforcement agencies, the General Assembly continued to penalize a person “required to register or verify his or her address or give notice of a change of address or residence who knowingly fails to do so[.]” *Id.* Thus, if a person who is required but fails to “register or verify his or her address” or fails to “give notice of a change of address,” then that person is subject to the penalty of up to ten years imprisonment, up to a \$10,000 fine, or both. *Id.* Defendant here is not accused of failing to register or verify his address, nor is he charged with failing to give notice of a change of address or residence. Accordingly, he is not subject to the penalty set forth in § 11-37.1-10(a).

A narrow reading of the language of § 11-37.1-10(a), a penal statute, which gives Defendant the “benefit of any reasonable doubt as to whether the act charged is within the meaning of [the] statute,” *DelBonis*, 862 A.2d at 766 (internal quotation omitted), ineluctably leads to the conclusion that the Criminal Information fails to demonstrate that Defendant committed any

offense which has a corresponding criminal penalty under Rhode Island law. *DelBonis*, 862 A.2d at 766. The Criminal Information package does not demonstrate probable cause to believe that a crime was committed by Defendant when he had two cell phones in his possession without having notified SKPD of the second cell phone number. For this reason, then, Defendant's motion to dismiss should be granted.

3

The State's Interpretation Ignores a Person's Separate Duty to "Verify"

Application of the other relevant rules of statutory construction leads to the same result. The State contends that the word "register," as used in § 11-37.1-10(a), is not limited to just registering one's address, but also refers to the universe of information that a person is required to provide under § 11-37.1-3(e). (State's Obj. 3.) In support of that argument, the State argues that there are three distinct acts that are subject to the criminal penalty in § 11-37.1-10(a) if a person knowingly fails to do it: (1) "register," (2) "verify his or her address," and (3) "give notice of a change of address or residence." *Id.* at 2. The State also asserts that if the word "register," as used in § 11-37.1-10(a), refers only to "his or her address," then the word "verify" as used in that same penal statute becomes surplusage. *Id.* at 4.

The State is correct that "it is generally presumed that the General Assembly intended every word of a statute to have a useful purpose and to have some force and effect." *State v. Briggs*, 58 A.3d 164, 168 (R.I. 2013) (internal quotation omitted). However, "statutes in pari materia should be considered together in order that they may be in harmony with each other and consistent with their general scope and purpose." *State v. St. Pierre*, 118 R.I. 45, 51, 371 A.2d 1048, 1051 (1977). Thus, this Court "must consider the entire statute as a whole; individual sections must be

considered in the context of the entire statutory scheme, not as if each section were independent of all other sections.” *Briggs*, 58 A.3d at 168 (internal quotation omitted).

A review of the Act demonstrates that the Legislature intended for the words “register” and “verify” to have different meanings. Since 1996, a person was required only to register his or her address annually and verify his or her address quarterly, and therefore, qualifying both words under the penalty provision with the phrase “his or her address” renders neither word meaningless. Any person convicted of certain types of offenses is “required to *register* his or her current address with the local law enforcement agency having jurisdiction over the city or town in which the person having the duty to register resides for the time period specified in § 11-37.1-4.” Section 11-37.1-3(a) (emphasis added). Section 11-37.1-4(a) further provides that “[a]ny person required to register . . . shall *annually register* with the local law enforcement agency having jurisdiction over the city or town in which the person having the duty to register resides . . . and shall *verify* his or her address with the agency *on a quarterly basis*[.]” Section 11-37.1-4(a) (emphasis added). Additionally, §§ 11-37.1-4(e)-(f) require individuals covered under the Act to “perform their initial *registration* . . . within twenty-four (24) hours” of their release from incarceration (for those sentenced to a period of confinement) or of being sentenced (for those not sentenced to any term of incarceration or confinement). Sections 11-37.1-4(e)-(f) (emphasis added).

Section 11-37.1-8, enacted in 1996, governs the manner in which an address is verified. *See* § 11-37.1-8, as enacted by P.L. 1996, ch. 104, § 1. That section, entitled “Verification of address,” now provides:

“(a) For a person required to register . . . on each anniversary of the person’s initial registration date during the period in which the person is required to register:

“(1) The designated state law enforcement agency or local law enforcement agency shall mail a non-forwardable verification form to the last reported address of the person;

“(2) The person shall mail the verification form to the designated state law enforcement agency or local law enforcement agency within ten (10) days after receipt of the form;

“(3) The verification form shall be signed by the person, and state that the person still resides at the address last reported to the local law enforcement agency having jurisdiction over the city or town in which the person having the duty to register resides; and

“(4) If the person fails to mail the verification form to the designated state law enforcement agency or local law enforcement agency within ten (10) days after receipt of the form, the person shall be in violation of this chapter unless the person proves that the person has not changed the residence address from that which he or she last registered.” Section 11-37.1-8.

Thus, a person covered under the Act is required to *register* his or her address with the designated law enforcement agency within twenty-four hours of sentencing or release from confinement as well as on an annual basis thereafter for ten years, and he or she is also required to *verify* the registered address on a quarterly basis by complying with the process described in § 11-37.1-8. These are distinct acts that both involve a person’s address. The word “verify” is not rendered meaningless by interpreting “register” as being modified by the phrase “his or her address” when interpreting § 11-37.1-10(a).

Furthermore, the State’s argument that the word “register,” as used in § 11-37.1-10(a), refers to the litany of registration information that is now required under § 11-37.1-3(e), ignores rules of grammar, particularly, the use of commas in a list of more than two items. If the General Assembly had intended to penalize three different acts as the State contends, then grammatical rules would require § 11-37.1-10(a) to read: “Any person who is required to register, verify his or her address, or give notice of a change of address or residence who knowingly fails to do so shall

be guilty of a felony” Absent that additional comma between “register” and “verify,” and consistent with the distinct obligations to initially register an address, to annually register an address, and to verify an address quarterly, the word “register,” as used in § 11-37.1-10(a), must be read to refer only to “his or her address.”

Even assuming, *arguendo*, that the State’s reading of § 11-37.1-10(a) did not violate rules of grammar, “when two constructions of a criminal statute are possible, the rule of lenity dictates that the less harsh construction controls.” *DelBonis*, 862 A.2d at 766 (citing *Carter*, 827 A.2d at 644). For this additional reason, then, Defendant cannot be penalized under § 11-37.1-10(a) for failing to provide notice of a change in his telephone number, and he is entitled to dismissal of the pending Criminal Information.

4

The Amendment to § 11-37.1-10 Failed to Include a Penalty for Failing to Provide Additional Information

Before the General Assembly required that additional information be provided to law enforcement agencies under § 11-37.1-3(e), the penalty provision read as it does today, criminalizing one’s knowing failure to (1) register or verify his or her address, or (2) give notice of a change of address or residence. *See* § 11-37.1-10(a). The General Assembly is presumed to have known what conduct was subject to a criminal penalty under the Act at the time it was amended to require the plethora of additional information listed in § 11-37.1-3(e) be provided to law enforcement within the time frame set forth in § 11-37.1-9(e). *See DelBonis*, 862 A.2d at 768-69.

The General Assembly declined to subject persons failing to provide notice of a change in the additional information enumerated in § 11-37.1-3(e). The penalty provision could have been amended to include a person’s knowing failure “to give notice of a change of address, residence

or any other information required to be provided under § 11-37.1-3(e).” Alternatively, the General Assembly could have amended the term “register” to read “any person who is required to register any information under this chapter, verify his or her address” However, it failed to make any changes to § 11-37.1-10(a) that incorporated or otherwise even reflected the amendments to §§ 11-37.1-3(e) and/or 11-37.1-9(e).

This Court cannot now supplement or amend § 11-37.1-10(a) when the General Assembly elected not to. *See Maxie*, 187 A.3d at 341. A criminal penalty cannot be read to include conduct that the General Assembly did not expressly proscribe. The Criminal Information charging Defendant with violating § 11-37.1-3, by failing to provide a change of telephone number, cannot stand as that specific conduct is not subject to a criminal penalty.

B

Telephone Number “of the Person” Required to Register

Even if this Court were to conclude that § 11-37.1-10(a) did penalize a person required to register who knowingly fails to notify law enforcement of changes to their registration information, the Criminal Information in the instant case does not demonstrate the existence of probable cause to believe that Defendant committed the offense charged. While Defendant admitted that he was in possession of two cell phones on October 16, 2024, he repeatedly stated that one of the cell phones did not belong to him. (Crim. Info., Ex. 8, at 1.)

The Criminal Information suggests that any possession of another person’s telephone, used at any time by a person who is required to register under the Act, would mandate “immediate notification” of a “change in required registration information” pursuant to §§ 11-37.1-3(e) and 11-37.1-9(e). Without more, the Court—and Defendant—are unable to ascertain under what circumstances someone else’s telephone number will become a “telephone number of the person”

required to register, *see* § 11-37.1-3(e)(10), and when, in this case, the State contends that Defendant's telephone number changed.

Because this Court has determined that Defendant's motion to dismiss should be granted because the alleged offense of failing to notify the SKPD of a change in Defendant's telephone number is conduct which does not have a corresponding penalty, this Court will refrain from ruling on the other grounds that Defendant raises herein. Should these additional grounds raised by Defendant require this Court's consideration and decision at a later time, the parties will have the opportunity to supplement their arguments.

IV

Conclusion

The Criminal Information and exhibits appended thereto do not demonstrate the existence of probable cause to believe that Defendant committed an offense that has a corresponding criminal penalty. Accordingly, Defendant's motion to dismiss the information pursuant to Rule 9.1 of the Superior Court Rules of Criminal Procedure is hereby **GRANTED**.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE: State of Rhode Island v. Cristian Garcia

CASE NO: W2-2025-0156A

COURT: Washington County Superior Court

DATE DECISION FILED: February 12, 2026

JUSTICE/MAGISTRATE: K. Rodgers, J.

ATTORNEYS:

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