IN THE COMMONWEALTH COURT OF PENNSYLVANIA

L.A.P.,	:	
Petitioner	:	
	:	No. 614 M.D. 2019
v.	:	
	:	Submitted: July 24, 2026
Robert Evanchick,	:	
Respondent	:	

BEFORE: HONORABLE ANNE E. COVEY, Judge
HONORABLE LORI A. DUMAS, Judge
HONORABLE STACY WALLACE, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION BY
JUDGE DUMAS **FILED: November 19, 2026**

L.A.P. (Petitioner), *pro se*, has filed an amended petition for review in our original jurisdiction, asserting that the retroactive application of Subchapter I of the Sexual Offender Registration and Notification Act (SORNA II)[1] is unconstitutional. In response, Robert Evanchick[2] (Respondent) has filed preliminary objections in the nature of a demurrer. Upon review, we sustain those preliminary objections in part and overrule them in part, and we direct Respondent to answer the remaining claims.

[1] Act of February 21, 2018, P.L. 27, No. 10 (Act 10), 42 Pa.C.S. §§ 9799.10-9799.75, *as amended* by the Act of June 12, 2018, P.L. 140, No. 29 (Act 29).

[2] Evanchick formerly served as Commissioner of the Pennsylvania State Police. Although unclear, it appears that Petitioner intended to bring this suit against the former commissioner in his official capacity.

I. BACKGROUND[3]

Petitioner is a state inmate currently incarcerated at the State Correctional Institution at Mahanoy. In 1998, Petitioner pleaded guilty to rape and involuntary deviate sexual intercourse,[4] and he was classified as a sexually violent predator (SVP). After his original sentence was vacated, the Court of Common Pleas of Bradford County (sentencing court) sentenced Petitioner to an aggregate term of 15 to 30 years of incarceration.[5]

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[3] Unless otherwise stated, we derive this background from Petitioner's amended petition and its attached exhibits. *See Am. Pet.*, 10/10/25; *Foxe v. Pa. Dep't of Corr.*, 214 A.3d 308, 310 n.1 (Pa. Cmwlth. 2019) (observing that courts reviewing preliminary objections may not only consider the facts pleaded in the petition for review, but also any documents or exhibits attached to it). Petitioner has pleaded limited facts in support of his claims. *See* Am. Pet. at viii, 2. Nevertheless, we construe those facts as true. *See Gentilquore v. Pa. Dep't of Corr.*, 326 A.3d 512, 515 n.6 (Pa. Cmwlth. 2024) (*en banc*). Additionally, we accept as true those facts admitted by Petitioner in his answer to the preliminary objections filed by Respondent. *See* Prelim. Objs., 11/25/25; Answer to Prelim. Objs., 12/5/25.

[4] 18 Pa.C.S. §§ 3121(a)(1), 3123(a)(1), respectively.

[5] In 1995, our General Assembly enacted Megan's Law I, Act of October 24, 1995, P.L. 1079, No. 24, *formerly* 42 Pa.C.S. §§ 9791-9799.6, to establish procedures for adjudicating sexual offenders, among other purposes. Megan's Law I required individuals adjudicated by the sentencing court to be SVPs, to register with the Commonwealth as such and comply with notification and counseling requirements. *See generally id.* Following our Supreme Court's decision in *Commonwealth v. Williams*, 733 A.2d 593 (Pa. 1999), which struck down these procedures, Petitioner's sentence became invalid.

For additional context, we note the following. The General Assembly enacted Megan's Law II, Act of May 10, 2000, P.L. 74, No. 18, *formerly* 42 Pa.C.S. §§ 9791-9799.7. Thereafter, in 2004, the General Assembly enacted Megan's Law III, Act of November 24, 2004, P.L. 1243, No. 152, *formerly* 42 Pa.C.S. §§ 9791-9799.9, which served as an updated version of Megan's Law and remained in effect until the General Assembly replaced it with the Sexual Offender Registration and Notification Act (SORNA I), Act of December 20, 2011, P.L. 446, No. 111, *as amended*, *formerly* 42 Pa.C.S. §§ 9799.10 to 9799.41. In *Commonwealth v. Muniz*, 164 A.3d 1189 (Pa. 2017), a plurality of our Supreme Court determined that the retroactive application of SORNA I violated constitutional prohibitions against *ex post facto* laws. *See Muniz*, 164 A.3d at 1193, 1223. Following our Supreme Court's decision in *Muniz*, the General Assembly passed SORNA II.

SORNA II is divided into two distinct subchapters. Subchapter H applies to "individuals who committed a sexually violent offense on or after December 20, 2012, for which the individual was

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Petitioner commenced this action in November 2019. *See Pet. for Rev.*, 11/5/19. In September 2021, this Court granted Petitioner leave to amend his petition. *See* Cmwlth. Ct. Order, 9/1/21. However, Petitioner did not file an amended pleading, and the matter remained dormant until 2024, when this Court issued a rule to show cause why the action should not be dismissed. *See* Cmwlth. Ct. Order, 4/1/24. Petitioner timely responded and later filed his amended petition in October 2025, challenging the constitutionality of SORNA II's registration requirements.

In his amended petition, Petitioner has pleaded seven causes of action.[6] Five of these claims are grounded in the shared premise that Subchapter I of SORNA II is a punitive statute, from which he asserts violations of the *ex post facto*[7] and double jeopardy[8] clauses of both the United States and Pennsylvania Constitutions, the separation of powers doctrine, substantive due process,[9] and the prohibition against bills of attainder.[10] *See* Am. Pet. at 8-15. As to Petitioner's two remaining

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convicted." 42 Pa.C.S. § 9799.11(c). Subchapter I applies to individuals who committed a sexually violent offense "on or after April 22, 1996, but before December 20, 2012," and whose period of registration has not yet expired or whose registration requirements under a former sexual offender registration law have not expired. 42 Pa.C.S. § 9799.52.

[6] Petitioner's first three claims are "Legislative Intent," "Act 29 is a Punitive Statute," and "The Rule of Lenity," respectively. *See* Am. Pet. at 3, 5, 6. These are not independent causes of action for which relief can be granted. Further, in challenging Act 29, it is clear that Petitioner means to challenge the registration and reporting requirements applicable to him through Subchapter I of SORNA II. *See generally* Am. Pet.

[7] *See* U.S. CONST. art. I, § 10, cl. 1; Pa. Const. art. I, § 17.

[8] *See* U.S. CONST. amend. V; Pa. Const. art. I, § 10.

[9] Although Petitioner labels this as a substantive due process claim, the theory that he advances is predicated on his assertion that Subchapter I imposes additional criminal punishment beyond his judicial sentence. *See* Am. Pet. at 8.

[10] "A bill of attainder is a legislative enactment which determines guilt and inflicts punishment upon an identifiable person or group without a judicial trial." *Silo v. Ridge*, 728 A.2d 394, 401 (Pa. Cmwlth. 1999). Both the United States and Pennsylvania Constitutions prohibit bills of attainder. *See* U.S. CONST. art. I, § 10, cl. 1; Pa. Const. art. I, § 18.

causes of action, he contends that Subchapter I relies on an unconstitutional irrebuttable presumption and, relatedly, infringes upon his right to protect his reputation.[11] *See id.* at 15-18.

Respondent then filed preliminary objections in the nature of a demurrer, and Petitioner timely filed an answer. Following these filings, this Court directed each party to submit briefs in support of their respective positions. *See* Cmwlth. Ct. Order, 12/12/25. Respondent timely filed a brief with this Court. *See* Resp't's Br., 1/12/26.

Thereafter, in March 2026, this Court notified Petitioner that he had not filed a brief and afforded him two additional weeks to submit one. *See* Cmwlth. Ct. Order, 3/12/26. Petitioner sought an extension, which this Court granted and ordered Petitioner to serve his brief on Respondent "on or before June 1, 2026, or the Court will proceed . . . without [his] brief." *See* Cmwlth. Ct. Order, 5/12/26. Petitioner has not filed a brief with this Court, and we now review the matter.

II. DISCUSSION

A preliminary objection in the nature of a demurrer contests the legal sufficiency of a pleading. *See* Pa.R.Civ.P. 1028(a)(4). "In ruling on preliminary objections, we must accept as true all well-pleaded material allegations in the petition for review, as well as all inferences reasonably deduced therefrom." *Torres v. Beard*, 997 A.2d 1242, 1245 (Pa. Cmwlth. 2010). This Court, however, is not required to accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations, or expressions of opinion. *See id*. A demurrer "will be

[11] *See* Pa. Const. art. I, § 1 ("All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.").

sustained only in cases where the pleader has clearly failed to state a claim for which relief can be granted." *Id.* "[W]here any doubt exists as to whether the preliminary objections should be sustained, the doubt must be resolved in favor of overruling the preliminary objections." *Pa. State Lodge, Fraternal Ord. of Police v. Dep't of Conservation & Nat. Res.*, 909 A.2d 413, 416 (Pa. Cmwlth. 2006).

A. *Ex Post Facto,* Double Jeopardy, Separation of Powers, Substantive Due Process, and Bill of Attainder

Respondent contends that most of Petitioner's claims are fatally flawed because these claims are premised upon the punitive nature of a prior version of SORNA and fail to account for the changes enacted by the legislature in Subchapter I. *See* Resp't's Br. at 8-9 (criticizing Petitioner's reliance on the Supreme Court's prior decision in *Muniz*). Rather, Respondent maintains that Subchapter I does not constitute criminal punishment and is, therefore, constitutionally permissible. *See id.* (citing *Commonwealth v. Lacombe*, 234 A.3d 602 (Pa. 2020)).

In this manner, Respondent demurs specifically to Petitioner's alleged violations of the *ex post facto* and double jeopardy clauses of the United States and Pennsylvania Constitutions, the separation of powers doctrine, and substantive due process. Prelim. Objs., 11/12/25, ¶¶ 11, 14-16. Respondent did not object specifically to Petitioner's bill of attainder claim. *See generally id.* However, this claim is similarly premised upon an allegation that Petitioner is being punished unlawfully. *See* Am. Pet., ¶¶ 50-60. Therefore, because Respondent specifically demurred to Petitioner's claims on the basis that "[S]ubchapter I of SORNA [II] is

non-punitive," Prelim. Objs., ¶ 12, we will consider Respondent's demurrer to this claim as well.[12]

Following our Supreme Court's decision in *Muniz*, the General Assembly enacted Subchapter I of SORNA II. Subchapter I applies to individuals, like Petitioner, who were convicted of a sexually violent offense prior to December 20, 2012, and whose period of registration has not expired. *See* 42 Pa.C.S. § 9799.52. The purpose of Subchapter I is to "[p]rotect the safety and general welfare of the people of this Commonwealth" and "shall not be construed as punitive." 42 Pa.C.S. § 9799.51(b)(1), (2).[13] Upon review, our Supreme Court confirmed that

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[12] We caution Respondent that our authority to review preliminary objections is generally limited to those objections actually raised by Respondent. *See Lutweiler v. Northchester Corp.*, 319 A.2d 899, 901 n.5 (Pa. 1974) ("Although our rules do allow certain matters to be raised by the court on its own motion, a failure to state a cause of action is not one of them[.]"); *Beers v. Pa. State Police* (Pa. Cmwlth., No. 338 M.D. 2018, filed Aug. 29, 2018), slip op. at 11, 2018 WL 4100235, at *5 (citing *Bell v. Rockview State Corr. Facility*, 620 A.2d 645 (Pa. Cmwlth. 1993)). *See* 210 Pa. Code § 69.414(a).

[13] Section 9799.51(b) provides:

> (b) Declaration of policy.--It is hereby declared to be the intention of the General Assembly to:
>
> (1) Protect the safety and general welfare of the people of this Commonwealth by providing for registration, community notification and access to information regarding sexually violent predators and offenders who are about to be released from custody and will live in or near their neighborhood.
>
> (2) Require the exchange of relevant information about sexually violent predators and offenders among public agencies and officials and to authorize the release of necessary and relevant information about sexually violent predators and offenders to members of the general public, including information available through the publicly accessible Internet website of the Pennsylvania State Police, as a means of assuring public protection and shall not be construed as punitive.
>
> (3) Address the Superior Court's opinion in the case of *Commonwealth v. Wilgus*, 975 A.2d 1183 ([Pa. Super.] 2009), by requiring sexually violent predators and offenders without a fixed place of habitation or abode to register under this subchapter.

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purpose and determined that "Subchapter I does not constitute criminal punishment . . . ." *See Lacombe*, 234 A.3d at 626. Accordingly, the registration and reporting requirements in Subchapter I do not violate the *ex post facto* clause of either the United States or the Pennsylvania Constitution. *See id.* at 626-27. Further, Subchapter I does not violate the double jeopardy clause of either the United States or Pennsylvania Constitutions, the separation of powers doctrine, or due process. *See id.* at 608 n.5.

Finally, Petitioner contends that Subchapter I functions as a bill of attainder in violation of Article I, Sections 9 and 10, of the Constitution of the United States and Article I, Section 18, of the Pennsylvania Constitution. Am. Pet., ¶¶ 50-60. "A bill of attainder is a legislative enactment which determines guilt and inflicts punishment upon an identifiable person or group without a judicial trial." *Silo v. Ridge*, 728 A.2d 394, 401 (Pa. Cmwlth. 1999); *see United States v. Brown*, 381 U.S. 437, 445 (1965). Subchapter I does not adjudicate guilt, nor does it inflict punishment. Therefore, it cannot constitute a bill of attainder. *Cf. Commonwealth v. Mountain*, 711 A.2d 473, 478 (Pa. Super. 1998) (rejecting a similar claim that Megan's Law functioned as a bill of attainder).[14]

For these reasons, we agree with Respondent that Petitioner has failed to state a claim alleging violations of the *ex post facto* and double jeopardy clauses of the United States and Pennsylvania Constitutions, the separation of powers

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> (4) Address the Pennsylvania Supreme Court's decision in *Commonwealth v. Muniz*, No. 47 MAP 2016 (Pa. 2016), and the Pennsylvania Superior Court's decision in *Commonwealth v. Butler*, 173 A.3d 1212 (Pa. Super. 2017).

42 Pa.C.S. § 9799.51(b).

[14] We may rely on Superior Court decisions as persuasive authority where they address analogous issues. *See Lerch v. Unemployment Comp. Bd. of Rev.*, 180 A.3d 545, 550 (Pa. Cmwlth. 2018).

doctrine, the prohibition against bills of attainder, and substantive due process. Accordingly, we sustain the demurrer to these claims. *See Lacombe*; *Torres*; *cf. Mountain*.

B. Irrebuttable Presumption and Reputation

Petitioner has pleaded that Subchapter I relies on an unconstitutional irrebuttable presumption that sexual offenders pose a high risk of recidivism. *See* Am. Pet. at 17-18. He has also independently pleaded that the statute violates the right to protect his reputation under the Pennsylvania Constitution. *See id.* at 15-16. In support of these claims, Petitioner references a 2013 Pennsylvania Department of Corrections Report that details recidivism rates among released inmates. *See* Am. Pet., Attach. (2013 PA Recidivism Report). According to Petitioner, this report establishes that certain sexual offenses reoccur less frequently than other offenses, such as drug offenses. *See id.* at 15. In Petitioner's view, the comparatively lower recidivism rates for sexual offenses indicate that the General Assembly's presumption is inaccurate. *See id.* at 15-18.

Respondent contends that Petitioner's claim of reputational harm "is primarily supported by mere legal conclusions." *See* Resp't's Br. at 9. He maintains that this Court "is not bound by mere legal conclusions, expressions of opinion, or argumentative allegations." *See id.* (citing *Thomas v. Corbett*, 90 A.3d 789, 794 (Pa. Cmwlth. 2014)). Respondent does not address separately Petitioner's irrebuttable presumption claim. *See generally id.*; Prelim. Objs., 11/12/25.

"Statutes creating irrebuttable presumptions are not *per se* violative of the constitution." *Commonwealth v. Torsilieri*, 316 A.3d 77, 92 (Pa. 2024).[15] "[A]n

[15] *Torsilieri* specifically addressed Subchapter H of SORNA II, not Subchapter I. *See Torsilieri*, 316 A.3d at 86-100. However, our Supreme Court's recent decision in *Commonwealth*
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irrebuttable presumption doctrine claim may arise whenever a provision states or implies that one fact (the basic fact) is conclusive evidence of another fact (the presumed fact) that provides the ostensible rationale for the classification established by the provision." *Id.* (internal quotation marks omitted). "When a legislative scheme employs presumptions that are overinclusive, the irrebuttable presumption doctrine requires that an individual have the opportunity to rebut that presumption." *Id.* at 93.

To bring an irrebuttable presumption claim, a litigant must plead facts showing (1) an interest protected by due process, (2) the use of a presumption that is not universally true, and (3) the lack of reasonable alternative means to ascertain the presumed fact. *See In re J.B.*, 107 A.3d 1, 15-16 (Pa. 2014). In the context of SORNA II, when a challenger asserts independent claims of a statutory irrebuttable presumption and harm to reputation, our Supreme Court has reasoned that the two challenges could not be analyzed independently because they rested on the same presumed fact: that sexual offenders pose a high risk of committing additional sexual offenses. *See Torsilieri*, 316 A.3d at 92 (recognizing that both challenges are "inextricably intertwined").

The Court further observed that earlier tribunals had employed the irrebuttable presumption doctrine's framework to address alleged reputational harms when those reputational harms arose from the same presumed fact that formed the basis of a statutory presumption challenge. *See id.* Building on that approach, the *Torsilieri* Court clarified that the offender's asserted reputational harm, *i.e.*, the

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v. Arnett, 353 A.3d 705 (Pa. 2026), applied the *Torsilieri* Court's irrebuttable presumption analysis to a petitioner who brought an irrebuttable presumption challenge to Subchapter I. *See Arnett*, 353 A.3d at 719-20. The *Arnett* Court concluded that, "because both subchapters are predicated upon the same presumption," the minor differences between Subchapter H and Subchapter I do not affect the applicability of *Torsilieri's* irrebuttable presumption framework. *Id.* at 720.

stigma flowing from being labeled a high-risk and dangerous sexual offender, therefore serves as the protected due-process interest required under the first prong of the irrebuttable presumption doctrine. *See id.* at 92, 96. Stated differently, because the reputational harm flows entirely from the statutory presumption at issue, it does not serve as a standalone basis for relief, and the irrebuttable presumption doctrine controls this analysis. *See id.*

Here, Respondent's demurrer suffers from multiple flaws. Under *Torsilieri*, Petitioner's alleged reputational harm directly flows into the first prong of his irrebuttable presumption claim. *See Torsilieri*, 316 A.3d at 91-96. Therefore, Petitioner has pleaded an interest protected by due process, the first element in the irrebuttable presumption analysis. *See id.* at 96.

Furthermore, Respondent's characterization of Petitioner's allegations is inaccurate. *See* Prelim. Objs., ¶ 17. While Petitioner's pleading contains conclusory statements, it also relies on factual assertions, including statistics drawn from the 2013 Department of Corrections Report attached to his Amended Petition. *See* Am. Pet. at 15. Petitioner has pleaded specific facts, including recidivism statistics, which he contends undermine the accuracy of Subchapter I's presumption. *See* Am. Pet. at 15; *id.*, Attach. (2013 PA Recidivism Report). These statistics represent factual allegations and must be accepted as true at this stage of the proceedings. *See Torres*, 997 A.2d at 1245. Taken as true, these allegations correspond to the second element of an irrebuttable presumption claim and are sufficient to state a claim at this stage. Moreover, Respondent did not explicitly object to Petitioner's irrebuttable presumption allegation. *See* Prelim. Objs., 11/12/25; *Lutweiler*, 319 A.2d at 901 n.5. Accordingly, at this stage, Petitioner's

claims alleging an unconstitutional irrebuttable presumption and reputational harm must survive Respondent's demurrer. *See Torres*, 997 A.2d at 1245.

III. CONCLUSION

For these reasons, we sustain Respondent's preliminary objections to Petitioner's claims alleging violations of the *ex post facto* and double jeopardy clauses of the United States and Pennsylvania Constitutions, the separation of powers doctrine, prohibition against bills of attainder, and substantive due process. *See Lacombe*, 234 A.3d at 626-27; *cf*. *Mountain*, 711 A.2d at 478. However, we overrule Respondent's preliminary objections to Petitioner's claims alleging that Subchapter I rests on an unconstitutional irrebuttable presumption and infringes upon his constitutional right to reputation. *See Torsilieri*, 316 A.3d at 91-96; *Lutweiler*, 319 A.2d at 901 n.5.

LORI A. DUMAS, Judge

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O R D E R

AND NOW, this 19th day of November, 2026, upon consideration of the preliminary objections filed by Robert Evanchick (Respondent), we SUSTAIN the preliminary objections to L.A.P.'s (Petitioner) claims alleging violations of the *ex post facto* clauses, double jeopardy clauses, separation of powers doctrine, constitutional prohibition against bills of attainder, and substantive due process. Those claims are dismissed with prejudice. We OVERRULE the preliminary objections to Petitioner's claims alleging that Subchapter I relies on an unconstitutional irrebuttable presumption, and that Subchapter I infringes upon Petitioner's constitutional right to reputation. Respondent is directed to file an answer to these claims as set forth in the Amended Petition within thirty (30) days of the date of this Order.

LORI A. DUMAS, Judge