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Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A09-722**

State of Minnesota,  
Respondent,

vs.

Kelly Ray Bottomley,  
Appellant.

**Filed April 6, 2010  
Affirmed  
Kalitowski, Judge**

Kandiyohi County District Court  
File No. 34-CR-07-1956

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Boyd Beccue, Kandiyohi County Attorney, C.J. Crowell, Shane Dean Baker, Assistant  
County Attorneys, Willmar, Minnesota (for respondent)

Lisa Agrimonti, Daniel J. Supalla, Briggs and Morgan, P.A., Minneapolis, Minnesota (for  
appellant)

Considered and decided by Halbrooks, Presiding Judge; Kalitowski, Judge; and  
Crippen, Judge.\*

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\* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to  
Minn. Const. art. VI, § 10.

## UNPUBLISHED OPINION

**KALITOWSKI**, Judge

Appellant Kelly Ray Bottomley challenges his 2008 conviction for failure to register as a sex offender in violation of Minn. Stat. § 243.166, subds. 3(b) and 5(a) (2008), arguing that (1) he was not obligated to register as a sex offender after 2004 and Minn. Stat. § 243.166, subd. 6(c) (2008), did not extend the obligation; and (2) he received ineffective assistance of counsel. We affirm.

### DECISION

#### I.

Appellant argues that the district court erred when it concluded that he failed to comply with his predatory-offender-registration obligation in 2007. Appellant contends that his obligation to register expired in December 2004, ten years after he first registered and the district court erred in determining his registration period was extended by Minn. Stat. § 243.166, subd. 6(c). We disagree.

Statutory construction is a question of law that we review de novo. *Lee v. Fresenius Med. Care, Inc.*, 741 N.W.2d 117, 122 (Minn. 2007). A statute’s “words and phrases are construed according to the rules of grammar” and according to their plain and common meaning, unless they embody some special significance. Minn. Stat. § 645.08 (1) (2008). The object of statutory interpretation is “to ascertain and effectuate the intention of the legislature.” Minn. Stat. § 645.16 (2008). We construe a statute as a whole and interpret it, whenever possible, to give effect to all of its provisions so that “no word, phrase, or sentence should be deemed superfluous, void, or insignificant.”

*Am. Family Ins. Group v. Schroedl*, 616 N.W.2d 273, 277 (Minn. 2000) (quoting *Amaral v. Saint Cloud Hosp.*, 598 N.W.2d 379, 384 (Minn. 1999)).

A person convicted of first-degree criminal sexual conduct is required to register as a predatory offender under the registration statute. Minn. Stat. § 243.166, subd. 1b(1)(iii) (2008). Appellant does not dispute that because of his 1985 first-degree criminal-sexual-conduct conviction, he was required to register for a period of ten years following his first registration in 1994. *See* Minn. Stat. § 243.166, subd. 6(a) (2008) (“a person required to register . . . shall continue . . . until ten years have elapsed since the person initially registered in connection with the offense, or until the probation, supervised release, or conditional release period expires, whichever occurs later”).

In 2000, the legislature added subdivision 6(c) to the statute:

If a person required to register under this section is subsequently incarcerated following a conviction for a new offense or following a revocation of probation, supervised release, or conditional release for any offense, the person shall continue to register until ten years have elapsed since the person was last released from incarceration. . . .

Minn. Stat. § 243.166, subd. 6(c). Whereas subdivision 1b enumerates the offenses triggering an initial duty to register, under subdivision 6(c), *any* new offense can extend the registration period. Appellant was incarcerated for a new offense from July 2000 to 2005. Thus, the district court concluded that although appellant’s registration obligation would have expired in 2004, his new offense “effectively restarted” his registration period and extended it until 2015, ten years after appellant was released from incarceration for the new offense.

Appellant does not dispute that he was convicted of a new offense and incarcerated for purposes of subdivision 6(c). Rather, appellant claims that his new conviction did not restart his registration period because it occurred prior to the August 1, 2000 effective date of subdivision 6(c). We disagree.

When the legislature enacted subdivision 6(c), it stated that it was to be “effective August 1, 2000, and apply to persons released from confinement, sentenced, subject to registration, or who commit offenses on or after that date.” 2000 Minn. Laws ch. 311, art. 2, § 16(h), at 207. Thus, giving the effective-date provision its plain-language meaning, any of the four listed categories of people are subject to subdivision 6(c): people who are released from confinement on or after August 1, people who are sentenced on or after August 1, people who are subject to registration on or after August 1, and people who commit offenses on or after August 1.

Because it is undisputed that appellant was “subject to registration” on or after August 1, 2000, when he committed a new offense and was subsequently incarcerated, his registration period was “effectively restarted” pursuant to Minn. Stat. § 243.166, subd. 6(c). We conclude that the district court did not err in determining that appellant’s new controlled-substance offense extended his registration obligation until 2015, ten years after his release from incarceration. *See* Minn. Stat. § 243.166, subd. 6(c) (requiring ten years of registration following release from incarceration for a new offense). Because appellant does not dispute that he failed to register in 2007, the district court properly concluded that appellant failed to comply with his registration obligation in 2007.

## **II.**

An attorney's failure to raise meritless claims does not constitute deficient performance and cannot provide the basis for a claim of ineffective assistance of counsel. *Schleicher v. State*, 718 N.W.2d 440, 449 (Minn. 2006). Because appellant's claim that Minn. Stat. § 243.166, subd. 6(c), does not apply to him is without merit, a failure to raise this issue cannot provide the basis for a claim of ineffective assistance of counsel.

**Affirmed.**