

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-vs-

TIMOTHY CASSIDY

Defendant-Appellant

JUDGES:

Hon. W. Scott Gwin, P.J.

Hon. Sheila G. Farmer, J.

Hon. Patricia A. Delaney, J.

Case No. 09-CA-169

O P I N I O N

CHARACTER OF PROCEEDING:

Appeal from the Stark County Court of
Common Pleas Case No. 2008-CV-00481

JUDGMENT:

AFFIRMED

DATE OF JUDGMENT ENTRY:

April 19, 2010

APPEARANCES:

For Plaintiff-Appellee:

ROSS RHODES 0073106
Assistant Prosecuting Attorney
110 Central Plaza S., Ste. 510
Canton, Ohio 44702

For Defendant-Appellant:

ANTHONY KOUKOUTAS 0066500
Anthony Koukoutas, LLC
111 Second St. NW, Ste. 302
Canton, Ohio 44702

Delaney, J.

{¶1} Petitioner-Appellant Timothy R. Cassidy, appeals the June 3, 2009, Judgment Entry of the Stark County Court of Common Pleas dismissing his petition to contest application of the Adam Walsh Act. Respondent-Appellee is the State of Ohio.

{¶2} Appellant was charged with one count of rape, a felony of the first degree, as a juvenile. On August 27, 1991, his case was transferred from the Juvenile Division to the General Division of the Stark County Court of Common Pleas. Thereafter, Appellant was indicted on one count of rape, a felony of the first degree.

{¶3} Appellant eventually pled guilty to and was convicted of one count of felonious sexual penetration, a felony of the first degree, and he was sentenced to five to twenty-five years in prison. Appellant was not classified as a sexual offender when he entered his guilty plea in 1991.

{¶4} On December 17, 1998, Appellant was classified as a sexually oriented offender and was advised of his duties to register upon release from prison.

{¶5} On November 26, 2007, the Ohio Attorney General's Office sent Appellant a letter informing him that he would be reclassified as a Tier III offender under the Ohio Adam Walsh Act ("AWA"), pursuant to R.C. 2950.01 et seq. Appellant filed a petition challenging his reclassification and his petition was dismissed by the Stark County Court of Common Pleas, citing this Court's prior opinions in *In re Adrian R.*, 5th Dist. No. 08-CA-17, 2008-Ohio-658, appealed allowed, 121 Ohio St.3d 1472, 2009-Ohio-2045 and *Sigler v. State*, 5th Dist. No. 08-CA-79, 2009-Ohio-2010, appeal allowed, 122 Ohio St.3d 1520, 913 N.E.2d 457, 2009-Ohio-4776 holding Senate Bill 10 is constitutional on all grounds challenged.

{¶6} Appellant now appeals, assigning four Assignments of Error:

{¶7} “I. THE RETROACTIVE APPLICATION OF OHIO’S AWA TO THE APPELLANT VIOLATES THE PROHIBITION ON EX POST FACTO LAWS IN ARTICLE I, SECTION 10 OF THE U.S. CONSTITUTION.

{¶8} “II. THE RETROACTIVE APPLICATION OF OHIO’S AWA TO THE APPELLANT VIOLATES THE PROHIBITION ON EX POST FACTO LAWS IN ARTICLE II, SECTION 28 OF THE OHIO CONSTITUTION.

{¶9} “III. THE RETROACTIVE APPLICATION OF OHIO’S AWA TO THE APPELLANT VIOLATES THE SEPARATION OF POWERS DOCTRINE.

{¶10} “IV. THE RECLASSIFICATION OF THE APPELLANT CONSTITUTES IMPERMISSIBLE MULTIPLE PUNISHMENT [SIC] UNDER THE DOUBLE JEOPARDY CLAUSES OF THE UNITED STATES AND OHIO CONSTITUTIONS.”

I, II, III, & IV

{¶11} This Court has examined the identical arguments as set forth by Appellant and has rejected them. See, *State v. Gooding*, 5th Dist. No. 08CA5, 2008-Ohio-5954; *In re Adrian R.*, 5th Dist. No. 08-CA-17, 2008-Ohio-6581; See also, *Sigler v. State*, 5th Dist. No. 08CA79, 2009-Ohio-2010. Further, virtually every appellate district in this State has upheld the Adam Walsh Act against the arguments raised by Appellant herein. See, *State v. Graves*, 179 Ohio App.3d 107, 900 N.E.2d 1045, 2008-Ohio-5763; *Holcomb v. State*, 3rd Dist. Nos. 8-08-23, 8-08-25, 8-08-26, 8-08-24, 2009-Ohio-782; *State v. Bodyke*, 6th Dist. Nos. H-07-040, H07-041, H07-042, 2008-Ohio-6387; *State v. Byers*, 7th Dist. No. 07CO39, 2008-Ohio-5051; *State v. Ellis*, 8th Dist. No. 90844, 2008-Ohio-6283; *State v. Honey*, 9th District No. 08CA0018-M, 2008-Ohio-4943; *State v. Christian*,

10th Dist. No. 08AP-170, 2008-Ohio-6304; *State v. Swank*, 11th Dist. No. 2008-L-019, 2008-Ohio-6059; and *State v. Williams*, 12th Dist. No. CA2008-02-029, 2008-Ohio-6195.

We overrule all four of Appellant's assignments of error pursuant to the authorities listed above.

{¶12} The June 3, 2009, Judgment Entry of the Stark County Court of Common Pleas is affirmed.

By: Delaney, J.

Gwin, P.J. and

Farmer, J. concur.

HON. PATRICIA A. DELANEY

HON. W. SCOTT GWIN

HON. SHEILA G. FARMER

IN THE COURT OF APPEALS FOR STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	
	:	
Plaintiff-Appellee	:	
	:	
-vs-	:	JUDGMENT ENTRY
	:	
TIMOTHY R. CASSIDY	:	
	:	
Defendant-Appellant	:	Case No. 09-CA-169
	:	

For the reasons stated in our accompanying Memorandum-Opinion on file, the judgment of the Stark County Court of Common Pleas is affirmed. Costs assessed to Appellant.

HON. PATRICIA A. DELANEY

HON. W. SCOTT GWIN

HON. SHEILA G. FARMER