

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
ROSS COUNTY

State of Ohio,	:	Case No. 09CA3121
Respondent-Appellee,	:	<u>DECISION AND</u>
v.	:	<u>JUDGMENT ENTRY</u>
Matthew C. Sprauer,	:	Released 12/17/09
Petitioner-Appellant.	:	

APPEARANCES:

Matthew C. Sprauer, Chillicothe Correctional Institute, Chillicothe, Ohio, pro se.

Michael M. Ater, Ross County Prosecuting Attorney, and Richard W. Clagg, Ross County Assistant Prosecuting Attorney, Chillicothe, Ohio, for appellee.

Harsha, J.

{¶1} Matthew Sprauer appeals the decision of the Ross County Court of Common Pleas denying his request for appointed counsel at a hearing to contest his reclassification as a sexual offender and rejecting his arguments that recent amendments to Ohio’s sexual offender classification system and registration requirements for certain sexual offenders are unconstitutional. Sprauer contends that the trial court violated his right to counsel when it denied his motion for appointed counsel at a hearing to contest his reclassification as a sexual offender under R.C. 2950, as amended by Am.Sub.S.B. No. 10 (S.B. 10). Sprauer separately argues that S.B. 10 violates the doctrine of separation of powers, the prohibitions against ex post facto and retroactive laws, and his right to due process. We have recently examined these identical issues in the same context presented by Sprauer and rejected his

position in each instance. Accordingly, we choose not to revisit each question and rely upon our prior decisions in overruling Sprauer's assignments of error.

I. Facts

{¶2} In 2005, Sprauer was convicted in Warren County of multiple counts of rape and gross sexual imposition. The court sentenced him to prison and classified him as a sexual offender under the version of R.C. 2950 as it existed at that time. When the current version of R.C. 2950, as amended by S.B. 10, took effect, Sprauer received notice from the Ohio Attorney General informing him that he had been reclassified as a Tier III sex offender. In January 2008, Sprauer requested a hearing in the Ross County Court of Common Pleas.¹ Sprauer also asked the court to appoint counsel to represent him at the hearing. After the trial court denied Sprauer's request for counsel, Sprauer submitted written arguments contending that the new reclassification system and registration requirements were unconstitutional. In June 2009, the court rejected Sprauer's arguments and found the amendments in S.B. 10 to be constitutional. This appeal followed.

II. Disposition

{¶3} Sprauer argues that the trial court violated his right to counsel when it denied his motion for appointed counsel in the R.C. 2950.031(E) proceedings below. He also contends that provisions of S.B. 10 are unconstitutional.

{¶4} We have recently reviewed a number of appeals by inmates from the same institution as Sprauer. Each of them raised the same issues we find here. These appellants claimed that they had a right to appointed counsel at the hearing to contest

¹ R.C. 2950 permits an offender to challenge his reclassification in the court of common pleas in the county where the offender resides or is domiciled. Sprauer is currently incarcerated at the Chillicothe Correctional Institution.

reclassification, that provisions of S.B. 10 implicated the United States Constitution's prohibition of ex post facto laws and the Ohio Constitution's prohibition against retroactive laws, that legislative changes to the classification system and/or registration requirements amount to an improper intrusion into judicial function and violate the doctrine of separation of powers, and that certain requirements of S.B. 10 violate due process. We expressly rejected these arguments in *State v. Netherland*, Ross App No. 08CA3043, 2008-Ohio-7007, *State v. Randlett*, Ross App No. 08CA3046, 2009-Ohio-112, *State v. Bower*, Ross App. No. 08CA3047, 2009-Ohio-201, *State v. Messer*, Ross App. No. 08CA3050, 2009-Ohio-312, and *State v. Linville*, Ross App. No. 08CA3051, 2009-Ohio-313.

{¶15} Because we see no reason to revisit or deviate from our recent decisions on these issues, we reject Sprauer's assignments of error based upon the rationale expressed in those cases. Thus, we conclude that Sprauer had no right to counsel at his reclassification hearing and that he has failed to establish beyond a reasonable doubt that the provisions he contests in S.B. 10 are unconstitutional.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT IS AFFIRMED and that Appellant shall pay the costs.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Ross County Common Pleas Court to carry this judgment into execution.

Any stay previously granted by this Court is hereby terminated as of the date of this entry.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure. Exceptions.

Kline, P.J. & McFarland, J.: Concur in Judgment and Opinion.

For the Court

BY: _____
William H. Harsha, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.