

IN THE COURT OF APPEALS FOR MONTGOMERY COUNTY, OHIO

STATE OF OHIO :  
Plaintiff-Appellee : C.A. Case No. 20763  
vs. : T.C. Case No. 04-CR-1855  
DAVID S. PELFREY : (Criminal Appeal from Common  
: Pleas Court)  
Defendant-Appellant :

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OPINION

Rendered on the 31st day of March, 2006.

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MATHIAS H. HECK, JR., Prosecuting Attorney, By: JOHNNA M. SHIA, Assistant  
Prosecuting Attorney, Atty. Reg. #0067685, Appellate Division, P.O. Box 972, 301 W.  
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Dayton, Ohio 45402  
Attorney for Defendant-Appellant

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BROGAN, J.

{¶ 1} David Pelfrey appeals from his conviction in the Montgomery County  
Common Pleas Court of felony domestic violence. Pelfrey’s victim was his former wife  
and current girlfriend who was alleged in the indictment to be a “family or household  
member” despite the fact they were not presently married. The alleged assault  
occurred on May 15, 2004, and Pelfrey was convicted on July 20, 2004.

{¶ 2} In a single assignment of error, Pelfrey contends R.C. 2921.25(A) is unconstitutional as a result of the Marriage Amendment, Section 11, Article XV of the Ohio Constitution, to the extent that the statute recognizes a legal status for relationships of unmarried individuals that intends to approximate the design, qualities, significance or effect of marriage.

{¶ 3} The State argues that the Marriage Amendment does not render R.C. 2919.25(A) unconstitutional and in any event it has no application to Pelfrey since his conduct and conviction preceded the effective date of the Marriage Amendment. The effective date of the Marriage Amendment was December 2, 2004. We agree the Amendment is not applicable to Pelfrey. See *State v. Roosevelt Newell*, 2005-Ohio-2848, Stark App. Case No. 2004CA00264. Appellant's assignment of error is Overruled.

{¶ 4} The judgment of the trial court is Affirmed.

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FAIN, J., and DONOVAN, J., concur.

Copies mailed to:

Johnna M. Shia  
William T. Daly  
Hon. Michael Tucker