

[Cite as *State v. Woullard*, 2006-Ohio-1804.]

IN THE COURT OF APPEALS FOR GREENE COUNTY, OHIO

STATE OF OHIO	:	
Plaintiff-Appellant	:	C.A. CASE NO. 2005 CA 61
v.	:	T.C. NO. 2005 CR 256
CHRISTOPHER WOULLARD	:	(Criminal Appeal from Common Pleas Court)
Defendant-Appellee	:	

**OPINION**

Rendered on the 7<sup>th</sup> day of April, 2006.

ELIZABETH A. ELLIS, Atty. Reg. No. 0074332, Assistant Prosecutor, 61 Greene Street, Xenia, Ohio 45385

Attorney for Plaintiff-Appellant

J. DAVID TURNER, Atty. Reg. No. 0017456, 2443 S. Dixie Drive, Dayton, Ohio 45409

Attorney for Defendant-Appellee

FAIN, J.

{¶ 1} The State of Ohio appeals from the dismissal of an indictment against defendant-appellee Christopher Woullard for Domestic Violence. The State's sole assignment of error is as follows:

{¶ 2} "THE TRIAL COURT ERRED AS A MATTER OF LAW WHEN IT DECLARED REVISED CODE SECTION 2919.25 UNCONSTITUTIONAL AS IT RELATES

TO COHABITATING PARTNERS, PURSUANT TO ARTICLE 15, SECTION 11 OF THE OHIO CONSTITUTION.”

{¶ 3} The State’s assignment of error is overruled upon the authority of *State v. Ward* (March 24, 2006), Greene App. No. 2005-CA-75. Based upon our reasoning in that opinion, we agree with the trial court’s conclusion that the extension, in R.C. 2919.25(F)(1)(a)(i), of the protections of the Domestic Violence statute, to “a person living as a spouse” violates the Defense of Marriage amendment to the Ohio Constitution, Article XV, Section 11.

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

BROGAN, J., concurs.

DONOVAN, J., dissenting:

{¶ 5} I disagree for the reasons set forth in my dissent in *State v. Ward*.

.....

Copies mailed to:

- Elizabeth A. Ellis
- J. David Turner
- Hon. J. Timothy Campbell