

[Cite as *State v. Peterson*, 2006-Ohio-1816.]

IN THE COURT OF APPEALS FOR GREENE COUNTY, OHIO

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| STATE OF OHIO | : | |
| Plaintiff-Appellant | : | C.A. CASE NO. 2005 CA 44 |
| v. | : | T.C. NO. 2004 CR 873 |
| CORY J. PETERSON | : | (Criminal Appeal from Common Pleas Court) |
| Defendant-Appellee | : | |

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OPINION

Rendered on the 7th day of April, 2006.

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FAIN, J.

{¶ 1} The State of Ohio appeals from the dismissal of one count of an indictment charging defendant-appellee Cory Peterson with 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 reaons set forth in my dissent in *State v. Ward*.

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Copies mailed to:

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Hon. J. Timothy Campbell