

[Cite as *State v. James*, 2006-Ohio-3650.]

IN THE COURT OF APPEALS FOR GREENE COUNTY, OHIO

STATE OF OHIO	:	
Plaintiff-Appellant	:	C.A. CASE NO. 2005 CA 83
v.	:	T.C. NO. 2005 CR 0255
JONAH JAMES	:	(Criminal Appeal from Common Pleas Court)
Defendant-Appellee	:	

OPINION

Rendered on the 14th day of July, 2006.

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FAIN, J.

{¶ 1} The State of Ohio appeals from an order of the trial court dismissing an indictment against defendant-appellee Jonah James for Domestic Violence.

{¶ 2} James allegedly assaulted his live-in girlfriend, Samantha Coleman, in April, 2005. James was charged by indictment with Domestic Violence, as a felony of the third degree, James having four prior Domestic Violence convictions.

{¶ 3} James moved to dismiss the indictment, contending that the application of the Domestic Violence statute, R.C. 2919.25, to a “person living as a spouse” violates the Defense of Marriage amendment to the Ohio Constitution, Article XV, Section 11. The trial court agreed, and dismissed the indictment.

{¶ 4} The State’s sole assignment of error is as follows:

{¶ 5} “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.”

{¶ 6} The parties are making the same arguments that were made in *State v. Ward* (March 24, 2006), Greene App. No. 2005-CA-75. We follow our decision in that case, overrule the State’s sole assignment of error, and affirm.

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BROGAN, J., concurs.

DONOVAN, J., dissenting:

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

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Copies mailed to:

- Elizabeth A. Ellis
- Bahjat M. Abdallah
- Hon. Stephen A. Wolaver