

[Cite as *State v. Ward*, 2006-Ohio-3761.]

IN THE COURT OF APPEALS FOR GREENE COUNTY, OHIO

STATE OF OHIO	:	
Plaintiff-Appellant	:	C.A. CASE NO. 2005 CA 96
v.	:	T.C. NO. 05 CR 415
DOUGLAS WARD	:	(Criminal Appeal from Common Pleas Court)
Defendant-Appellee	:	

OPINION

Rendered on the 21st day of July, 2006.

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WOLFF, J.

{¶ 1} Douglas Ward was indicted with one count of domestic violence, a felony of the fourth degree, arising out of the assault of his live-in girlfriend on May 22, 2005. Ward moved to dismiss the charge, arguing that it violated the so-called Defense of Marriage amendment to the Ohio Constitution, Article XV, Section 11. On August 17, 2005, the court dismissed the charge. The State appeals.

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

{¶ 3} ‘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.’”

{¶ 4} The State claims that the trial court erred when it found R.C. 2919.25 unconstitutional as it applies to persons living as spouses.

{¶ 5} The State describes the victim as Ward’s “live-in girlfriend.” There is no suggestion that they were married, had been married, or had any children together. Accordingly, based on the record and the State’s representation, the victim was a “person living as a spouse” under R.C. 2919.25.

{¶ 6} This court has recently determined that, to the extent that R.C. 2919.25 extended its protection to “a person living as a spouse,” it was rendered unconstitutional by the Defense of Marriage amendment, which became effective on December 2, 2004. *State v. Ward*, Greene App. No. 2005-CA-75, 2006-Ohio-1407. For the reasons set forth in *Ward*, the State’s argument is without merit.

{¶ 7} The assignment of error is overruled.

{¶ 8} The judgment of the trial court will be affirmed.

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GRADY, P.J. and BROGAN, J., concur.

Copies mailed to:

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Hon. Stephen A. Wolaver

