

[Cite as *Caes v. State*, 2009-Ohio-6920.]

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
WARREN COUNTY

KEVIN CAES,	:	
	:	CASE NO. CA2009-07-095
Petitioner-Appellant,	:	
	:	<u>OPINION</u>
- vs -	:	12/30/2009
	:	
STATE OF OHIO,	:	
	:	
Respondent-Appellee.	:	

CIVIL APPEAL FROM WARREN COUNTY COURT OF COMMON PLEAS
Case No. 08-CV-70674

Rachel A. Hutzel, Warren County Prosecuting Attorney, Michael Greer, 500 Justice Drive, Lebanon, OH 45036, for respondent-appellee

Kura & Wilford Co., L.P.A., Barry W. Wilford, 492 City Park Avenue, Columbus, OH 43215, for petitioner-appellant

YOUNG, P.J.

{¶1} Defendant-appellant, Kevin Caes, appeals a decision of the Warren County Court of Common Pleas denying a petition contesting his sex offender reclassification.

{¶2} In July 1999, appellant was convicted of 22 counts of rape, three counts of felonious assault, and one count each of kidnapping, failure to comply with an

order or signal of a police officer, and unlawful possession of a dangerous ordnance. He was subsequently adjudicated to be a sexually violent predator and was sentenced to 110 years to life in prison. In January 2008, following the passage of Ohio's Adam Walsh Act, appellant received notification that he was reclassified under the Act. The record before us does not contain a copy of appellant's reclassification notice; presumably, appellant was reclassified as a Tier III sex offender under Ohio's Adam Walsh Act.

{¶13} Appellant filed a petition contesting the constitutionality and application of the reclassification. On April 14, 2009, a magistrate denied appellant's petition, citing this court's recent decision in *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195 (upholding Ohio's Adam Walsh Act on numerous constitutional grounds). Appellant's objections to the magistrate's decision were overruled by the trial court. This appeal follows.

{¶14} In a single assignment of error, appellant argues that the application of Ohio's Adam Walsh Act violates the doctrine of separation of powers, his due process rights, and the Ex Post Facto Clause of the United States Constitution, and amounts to double jeopardy. This court disposed of these arguments in *Williams*, 2008-Ohio-6195, in which we held that Ohio's Adam Walsh Act does not amount to double jeopardy and neither violates the Ex Post Facto Clause of the United States Constitution nor the separation of powers doctrine. *Id.* at ¶107-111, ¶37-75, and ¶95-102; see, also, *Moran v. State*, Clermont App. No. CA2008-05-057, 2009-Ohio-1840. Further, Ohio's Adam Walsh Act does not violate appellant's due process rights. *State v. Bell*, Clermont App. No. CA2008-05-044, 2009-Ohio-2335, ¶104.

{¶15} Appellant's assignment of error is overruled.

{¶6} Judgment affirmed.

HENDRICKSON, J., concurs.

RINGLAND, J., concurs in part and dissents in part.

RINGLAND, J., concurring in part and dissenting in part.

{¶7} I respectfully dissent based upon my analysis in *Sears v. State*, Clermont App. No. CA2008-07-068, 2009-Ohio-3541, finding that the retroactive modification of judicially-determined sex offender classifications by the Adam Walsh Act violates the separation of powers doctrine. I concur with the majority's resolution of the remaining issues.