

RENDERED: June 25, 2004; 10:00 a.m.
NOT TO BE PUBLISHED

Commonwealth Of Kentucky

Court of Appeals

NO. 2003-CA-000871-MR

TOMMY REEVES

APPELLANT

v. APPEAL FROM KENTON CIRCUIT COURT
HONORABLE STEVEN R. JAEGER, JUDGE
ACTION NO. 03-CR-00038

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * * * *

BEFORE: JOHNSON, TAYLOR AND VANMETER, JUDGES.

VANMETER, JUDGE: Appellant, Tommy Jo Reeves, appeals from a final judgment and sentence of the Kenton County Circuit Court following appellant's conditional guilty plea for failing to register/comply as a sex offender.¹ For the reasons stated hereafter, we affirm.

On May 9, 1988, appellant was convicted of sodomy in the first-degree and served approximately fourteen years in

¹ Kentucky Revised Statutes ("KRS") 17.510.

prison. Upon appellant's release in March 2002, appellant completed his sex offender registration form listing Kenton County as his address on the registry. Appellant subsequently moved to Gallatin County without informing the Kenton County Probation and Parole authorities.

On January 17, 2003, appellant was indicted by the Kenton County Grand Jury for violating the sex offender statute, KRS 17.510(10), by failing to register a change of address with the local probation and parole office within five (5) days after the date of the change of his address. On February 12, 2003, appellant filed a motion to dismiss the indictment because he was not given notice of his duty to register as a sex offender at the time of sentencing in 1988.² The circuit court denied the motion based on the holding in *Hyatt v. Commonwealth, Ky.*, 72 S.W.3d 566, 571-72 (2002). On April 9, 2003, the circuit court entered its final judgment and sentenced appellant to a term of one (1) year imprisonment. This appeal followed.

The issue on appeal is whether appellant was properly informed about the sex offender registration process in accordance with KRS 17.510. Specifically, appellant contends that neither the circuit court nor the warden followed the specific steps outlined in KRS 17.510 and therefore, the present

² Kentucky's sex offender registration statutes pertinent to the present case were enacted in 1998 and amended in 2000.

indictment against appellant should have been dismissed. We disagree.

KRS 17.510 states in pertinent part:

- (2) A registrant shall, on or before the date of his or her release by the court, the parole board, the cabinet, or any detention facility, register with the appropriate local probation and parole office in the county in which he or she intends to reside. The person in charge of the release shall facilitate the registration process.
- (3) Any person required to register pursuant to subsection (2) of this section shall be informed of the duty to register by the court at the time of sentencing and by the official in charge of the place of confinement upon release. . . .

However, in light of the fact that appellant registered as a sex offender upon his release from prison in March 2002, appellant's argument that he was never informed about this duty to register is without merit. KRS 17.510 (10) applies when a previously registered sex offender, such as appellant, does not inform the appropriate authorities about a change of address. The indictment against appellant was a result of his failure to register his change address from Kenton County to Gallatin County. As such, appellant's violation is based on KRS 17.510 (10), which states:

- (10)(a) If the residence address of any registrant changes, but the registrant remains in the same county, the person shall register,

on or before the date of the change of address, with the appropriate local probation and parole office in the county in which he or she resides.

- (b) 1. If the registrant changes his or her residence to a new county, the person shall notify his or her current local probation and parole office of the new residence address on or before the date of the change of address.
2. The registrant shall also register with the appropriate local probation and parole office in the county of his or her new residence no later than five (5) days after the date of the change of address.

Additionally, it is clear that Kentucky's sex offender registration statutes are not *ex post facto* laws under either the United States Constitution or the Kentucky Constitution. *Hyatt*, 72 S.W.3d at 571-72. See also *Lattimore v. Corrections Cabinet*, Ky. App., 790 S.W.2d 238, 239 (1990) (for a law to be considered *ex post facto*, it must apply to events occurring before its enactment and it must disadvantage the offender). The registration requirement in KRS 17.510 is merely a remedial measure, not punitive, as its goal entails protecting the public and facilitating law enforcement. *Hyatt*, 72 S.W.3d at 571-72. Therefore, the circuit court did not err.

For the foregoing reasons, the Kenton County Circuit Court's judgment is affirmed.

JOHNSON, JUDGE, CONCURS.

TAYLOR, JUDGE, CONCURS IN RESULT ONLY.

BRIEF FOR APPELLANT:

Linda Roberts Horsman
Assistant Public Advocate
Department of Public Advocacy
Frankfort, Kentucky 40601

BRIEF FOR APPELLEE:

Albert B. Chandler III
Attorney General of Kentucky

Tami Allen Stetler
Assistant Attorney General
Office of Attorney General
Frankfort, Kentucky