

[Cite as *Harrison v. State*, 2009-Ohio-3467.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

---

JOURNAL ENTRY AND OPINION  
**No. 92095**

---

**WILLIAM HARRISON**

PLAINTIFF-APPELLANT

vs.

**STATE OF OHIO**

DEFENDANT-APPELLEE

---

**JUDGMENT:  
AFFIRMED**

---

Civil Appeal from the  
Cuyahoga County Court of Common Pleas  
Case No. CV-651279

**BEFORE:** Gallagher, P.J., Kilbane, J., and McMonagle, J.

**RELEASED:** July 16, 2009

**JOURNALIZED:**

**ATTORNEY FOR APPELLANT**

Edward S. Wade, Jr.  
75 Public Square  
Suite 1111  
Cleveland, Ohio 44113

**ATTORNEYS FOR APPELLEE**

William D. Mason  
Cuyahoga County Prosecutor

BY: Daniel T. Van  
Assistant Prosecuting Attorney  
The Justice Center, 8th Floor  
1200 Ontario Street  
Cleveland, Ohio 44113

Richard Cordray  
Attorney General of Ohio  
30 East Broad Street, 26th Floor  
Columbus, Ohio 43215-3400

N.B. This entry is an announcement of the court's decision. See App.R. 22(B) and 26(A); Loc.App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(C) unless a motion for reconsideration with supporting brief, per App.R. 26(A), is filed within ten (10) days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(C). See, also, S.Ct. Prac.R. II, Section 2(A)(1).

SEAN C. GALLAGHER, P.J.:

{¶ 1} Appellant, William Harrison, appeals from the decision of the Cuyahoga County Court of Common Pleas that denied his petition contesting the retroactive application of Ohio's Adam Walsh Act and his administrative reclassification as a Tier III offender. Finding no merit to this appeal, we affirm.

{¶ 2} In March 2004, Harrison pled guilty to one count of attempted rape. He was sentenced to three to fifteen years in prison and adjudicated a sexually oriented offender after a sexual classification hearing pursuant to H.B. 180.

{¶ 3} In December 2007, after Harrison was released from prison, but while he was on parole, he received a letter informing him that he was going to be reclassified under the newly enacted Adam Walsh Act ("AWA") (R.C. 2950.01 et seq.) as a Tier III sex offender.

{¶ 4} Harrison filed an administrative appeal of the Attorney General's reclassification in the Cuyahoga County Court of Common Pleas. Harrison contended that Ohio's AWA violated the United States and Ohio Constitutions. The court denied Harrison's petition, held the statute constitutional, and ordered Harrison reclassified based on the new tier system.

{¶ 5} Harrison appealed. He advances three assignments of error for our review. His first assignment of error states the following:

{¶ 6} "1. The Ohio Adam Walsh Act violates the Retroactivity Clause of the Ohio Constitution."

{¶ 7} Harrison argues that Ohio's AWA violates Ohio's retroactivity clause, claiming that the statute is purely punitive because his classification is tied solely to his crime of conviction. In addition, his obligations and responsibilities are more onerous after reclassification. Harrison contends that changing his classification from a sexually oriented offender to a Tier III offender is not remedial in nature but, rather, impairs his substantive rights.

{¶ 8} Following the Third, Fourth, Seventh, and Ninth Appellate Districts, this court has held that Ohio's AWA does not violate the Retroactivity Clause of the Ohio Constitution because it is remedial in nature. See *State v. Ellis*, Cuyahoga App. No. 90844, 2008-Ohio-6283, citing *In re Gant*, 3<sup>rd</sup> Dist. No. 1-08-011, 2008-Ohio-5198; *State v. Byers*, 7<sup>th</sup> Dist. No. 07 CO 39, 2008-Ohio-5051; *State v. Honey*, 9<sup>th</sup> Dist. No. 08CA0018-M, 2008-Ohio-4943; *State v. Longpre*, 4<sup>th</sup> Dist. No. 08CA3017, 2008-Ohio-3832; but, see *State v. Omiecinski*, Cuyahoga App. No. 90510, 2009-Ohio-1066 (Sweeney, J., dissenting in part).

{¶ 9} Accordingly, we overrule Harrison's first assignment of error.

{¶ 10} Harrison's second assignment of error states the following:

{¶ 11} "II. The Ohio Adam Walsh Act is unconstitutional as an ex post facto law as it applies to Petitioner-Appellant."

{¶ 12} Under this assignment of error, Harrison argues that Ohio's AWA violates the Ex Post Facto Clause of the United States Constitution because his penalties have been increased. Originally, Harrison was labeled a sexually oriented offender. He had to register annually for ten years. Under his reclassification as a

Tier III offender, Harrison now has to register for life and verify every 90 days, as well as be subject to community notification and residency restrictions.

{¶ 13} Again, this court has addressed this issue in *State v. Holloman-Cross*, Cuyahoga App. No. 90351, 2008-Ohio-2189, finding that Ohio's AWA does not violate the Ex Post Facto Clause. Accordingly, we overrule Harrison's second assignment of error.

{¶ 14} Harrison's third assignment of error states the following:

{¶ 15} "III. Classification or reclassification of petitioner constitutes a violation of the Separation of Powers Doctrine."

{¶ 16} Harrison contends that his reclassification violates the separation of powers doctrine because it changes the classification determined by the trial court. In addition, Harrison argues that it interferes with his contract with the state wherein he pled guilty with the understanding that he would be labeled under the least restrictive sex offender category, and now, after reclassification, he is subject to the most stringent classification.

{¶ 17} This court addressed this same issue just recently in *Gildersleeve v. Ohio*, Cuyahoga App. Nos. 91515-91519 and 91521-91532, 2009-Ohio-2031. Again we upheld the constitutionality of Ohio's AWA. We found that the statute's retrospective application did not violate the separation of powers doctrine. Accordingly, Harrison's third assignment of error is overruled.

Judgment affirmed.

**It is ordered that appellee recover from appellant costs herein taxed.**

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to said court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

SEAN C. GALLAGHER, PRESIDING JUDGE

MARY EILEEN KILBANE, J., and  
CHRISTINE T. MCMONAGLE, J., CONCUR