

**COURT OF APPEALS OF OHIO**  
**EIGHTH APPELLATE DISTRICT**  
**COUNTY OF CUYAHOGA**

IN RE Z.M.	:	
	:	No. 109994
A Minor Child	:	

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JOURNAL ENTRY AND OPINION

**JUDGMENT: REVERSED AND REMANDED**  
**RELEASED AND JOURNALIZED: April 29, 2021**

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Civil Appeal from the Cuyahoga County Court of Common Pleas  
Juvenile Division  
Case No. DL15106353

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***Appearances:***

David S. Bartos, *for appellant.*

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Carla B. Neuhauser, Assistant Prosecuting Attorney, *for appellee.*

LARRY A. JONES, SR., J.:

{¶ 1} Juvenile-appellant, Z.M., appeals the trial court's decision to continue his classification as a juvenile-offender registrant. For the reasons that follow, we reverse and remand.

{¶ 2} In 2015, 16-year-old Z.M. was charged as a juvenile with two counts of rape, two counts of kidnapping, and two counts of gross sexual imposition. In

February 2016, he entered an admission and was adjudicated delinquent on two amended counts of gross sexual imposition and one count of kidnapping. Z.M. agreed to submit to a Mokita Assessment, which is an assessment that identifies risk factors for sexual reoffending. The Mokita Assessment was completed prior to his dispositional hearing.

{¶ 3} At the dispositional hearing, Z.M. was notified of his obligation to register as a Tier II sex offender. The court imposed a suspended commitment to the Ohio Department of Youth Services, ordered restitution, and placed Z.M. on two years' probation. Conditions of Z.M.'s probation included sex-offender counseling.

{¶ 4} The court held review hearings in May 2016 and August 2017. The Mokita Assessment was updated in June 2017. In April 2018, Z.M.'s probation officer filed a motion for review — amendment of court order that requested termination of probation and a redetermination of Z.M.'s sex-offender registration. By journal entry, dated May 11, 2018, the juvenile court terminated Z.M.'s probation and determined that he would remain a Tier II juvenile sex offender. The trial court did not, however, hold a completion-of-disposition hearing as required by R.C. 2152.84.

{¶ 5} On August 3, 2020, Z.M. filed a motion for declassification, citing the updated June 2017 Mokita Assessment and requesting the court declassify him as a sex offender. The state objected. The trial court denied Z.M.'s motion, without hearing, and it is from this order that Z.M. now appeals.

{¶ 6} Z.M. raises the following assignments of error:

I. The child was denied due process under Article I, Section 16 of the Ohio Constitution and the court committed reversible error by failing to hold a hearing on a motion for reclassification of juvenile offender registrant's tier status.

II. The trial court abused its discretion for failing to amend a juvenile offender registrant's tier status based upon evidence presented.

{¶ 7} In his first assignment of error, Z.M. contends that the trial court erred when it did not hold a hearing on his motion for reclassification. We find that this assignment of error is dispositive of this appeal.

{¶ 8} R.C. 2152.84 provides

When a juvenile court judge issues an order \* \* \* that classifies a delinquent child a juvenile offender registrant \* \* \* upon completion of the disposition of that child made for the sexually oriented offense \* \* \* on which the juvenile offender registrant order was based, the judge \* \* \* shall conduct a hearing to review the effectiveness of the disposition and of any treatment provided for the child, to determine the risks that the child might re-offend, to determine whether the prior classification of the child as a juvenile offender registrant should be continued or terminated \* \* \* and to determine whether the prior determination \* \* \* as to whether the child \* \* \* is a tier II sex offender \* \* \* should be continued or modified \* \* \*.

R.C. 2152.84(A)(1).

{¶ 9} R.C. 2152.84(D) provides that an order issued under R.C. 2152.84 "shall remain in effect for the period of time specified in section 2950.07 of the Revised Code, subject to a modification or termination of the order under R.C. 2152.85 of the Revised Code \* \* \*."

{¶ 10} R.C. 2152.85 sets forth the procedure to request reclassification or declassification of a juvenile offender registrant's tier status. R.C. 2152.85(B)(1)

states that a delinquent child may file an initial petition requesting reclassification or declassification “not earlier than three years after the entry of the juvenile court judge’s order” classifying the juvenile.

{¶ 11} The juvenile court classified Z.M. as a Tier II sex offender at his April 6, 2016 dispositional hearing. The journal entry from the hearing was filed on April 11, 2016. On May 11, 2018, without hearing, the juvenile court terminated Z.M.’s probation and determined that he would remain a Tier II sex offender. On August 3, 2020, Z.M. moved for declassification pursuant to R.C. 2152.85.

{¶ 12} Z.M. contends that the trial court erred when it did not hold a hearing on his motion. The state argues that Z.M.’s claim that the trial court should have held a hearing is barred by res judicata because Z.M. should have appealed the trial court’s initial order terminating his probation and continuing his sex-offender-tier registration status.

{¶ 13} As an initial matter, we note that nothing in R.C. 2152.85 requires a trial court to hold a hearing on a juvenile offender’s motion for declassification. The juvenile court is required, however, to hold a hearing pursuant to R.C. 2152.84 when the juvenile offender completes all aspects of his or her disposition. The trial court failed to do so in this case.

{¶ 14} The juvenile court was required to hold a hearing on the probation officer’s motion to terminate Z.M.’s probation and, at that time, determine whether the classification should be continued or terminated. Instead, the court

terminated probation and continued Z.M.'s tier II registration status without holding the required hearing.

{¶ 15} In *In re I.B.*, 1st Dist. Hamilton No. C-180558, 2019-Ohio-4489, the juvenile offender was adjudicated delinquent for gross sexual imposition and classified as a tier I juvenile sex-offender registrant. The court gave the juvenile a suspended sentence and placed him on probation. The juvenile court eventually ended the juvenile's probation but did not hold a hearing pursuant to R.C. 2152.84. The juvenile filed a motion to declassify pursuant to R.C. 2152.85. The juvenile court held a hearing on the motion and continued the juvenile's classification status and registration requirements. The juvenile appealed, arguing that the trial court erred in continuing classification status without an end-of-disposition hearing as mandated by R.C. 2152.84. *In re I.B.* at ¶ 4.

{¶ 16} The First District agreed, noting that the juvenile had not had a completion-of-disposition hearing at the time he filed his declassification petition; therefore, the petition was premature. *Id.* at ¶ 8. The court held that the juvenile court erred in considering the juvenile's motion and holding a hearing under R.C. 2152.85 because it had no authority to do so; rather the court should have dismissed the juvenile's motion as premature. *Id.*

{¶ 17} In this case, the juvenile court terminated Z.M.'s probation and continued his sex-offender classification on May 11, 2018, but did not hold the mandatory completion-of-disposition hearing. Z.M. had not had a completion-of-disposition hearing at the time he filed his motion for declassification petition;

therefore, his petition was premature.<sup>1</sup> The juvenile court erred in entertaining Z.M.'s motion filed pursuant to R.C. 2152.85, because it had no authority to do so.

{¶ 18} Finally, we are not persuaded by the state's argument that Z.M. cannot now challenge the trial court's decision to continue his classification as a tier II sex offender because he did not appeal the court's May 11, 2018 order. The juvenile court retains continuing jurisdiction over Z.M.'s sex-offender registrant status. *See In re N.W.*, 6th Dist. Wood No. WD-19-051, 2020-Ohio-290, ¶ 19, citing *In re D.S.*, 146 Ohio St.3d 182, 2016-Ohio-1027, 54 N.E.3d 1184, ¶ 36-40.

{¶ 19} Z.M. is now 22 years of age. "R.C. 2151.23(A)(15) grants the juvenile court jurisdiction to review classifications, hold hearings, and issue orders authorized under the classification statutes, and this jurisdiction necessarily extends beyond the juvenile's having reached the age of 21." *In re R.B.*, 2020-Ohio-5476, ¶ 49. While the failure of the juvenile court to hold the R.C. 2152.84 hearing in a timely manner may support other claims for relief, we conclude that the statutory directive that the hearing be held "upon completion of the disposition" is not a jurisdictional requirement. *Id.* Thus, the juvenile court retains jurisdiction over this matter.

{¶ 20} Z.M.'s first assignment of error is sustained for the reasons set forth in this opinion.

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<sup>1</sup>We also note that Z.M.'s motion was filed less than three years after the trial court issued its entry ending his probation; thus, even if the trial court had held the mandatory R.C. 2152.84 hearing in May 2018, Z.M.'s motion would have been premature.

**{¶ 21}** Because the first assignment of error is dispositive of this appeal, we do not consider the second assignment of error. *See* App.R. 12(A)(1)(c).

**{¶ 22}** The judgment of the juvenile court continuing Z.M.'s classification as a tier II sex offender under R.C. 2152.85 is vacated because the court had no authority to enter the order. The cause is remanded with instructions to the juvenile court to (1) dismiss Z.M.'s motion for declassification as premature, and (2) hold the mandatory completion-of-disposition hearing pursuant to R.C. 2152.84 at the earliest feasible date.

**{¶ 23}** Judgment reversed and case remanded.

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

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court, juvenile division, 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.

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LARRY A. JONES, SR., JUDGE

SEAN C. GALLAGHER, P.J., and  
EILEEN T. GALLAGHER, J., CONCUR