

COURT OF APPEALS
LICKING COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	JUDGES:
	:	Hon. W. Scott Gwin, P.J.
	:	Hon. William B. Hoffman, J.
Plaintiff-Appellee	:	Hon. Sheila G. Farmer, J.
	:	
-vs-	:	
	:	Case No. 2010-CA-52
GERALD LEE RINE, JR.	:	
	:	
Defendant-Appellant	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Criminal appeal from the Licking County Court of Common Pleas, Case No. 2008-CV-00149

JUDGMENT: Reversed and Remanded

DATE OF JUDGMENT ENTRY: September 20, 2010

APPEARANCES:

For Plaintiff-Appellee

For Defendant-Appellant

ALICE BOND
Licking County Prosecutor
20 South Second Street, 4th Fl.
Newark, OH 43055

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Ohio Poverty Law Center
555 Buttles Avenue
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Gwin, P.J.

{¶1} Defendant appellant Gerald Lee Rine, Jr. appeals a judgment of the Court of Common Pleas of Licking County, Ohio, which dismissed his petition contesting his reclassification under the Adam Walsh Act, R.C. 2905.01 et seq. Appellant assigns a single error to the trial court:

{¶2} “I. THE TRIAL COURT ERRED BY DISMISSING APPELLANT’S PETITION TO CONTEST RECLASSIFICATION.”

{¶3} Appellant was convicted of rape in 1987, Licking County Common Pleas Number 1987-CR-16515. In February 2002, appellant was classified under Megan’s Law, R.C. 2950.09, as a sexually oriented offender. In July, 2007, the Ohio Legislature passed the Adam Walsh Act, and the Attorney General reclassified appellant as a Tier III sexual offender. The new classification imposed more obligations and restrictions on appellant than he had under his former classification.

{¶4} Appellant contested his reclassification in the common pleas court. The common pleas court, relying on this court’s opinion in *Sigler v. State*, Richland. App. No 08 CA 79, 2009-Ohio-2010, and a string of cases following it, dismissed appellant’s petition on April 12, 2010.

{¶5} On June 3, 2010, the Ohio Supreme Court announced its opinion in *State v. Bodyke*, ___ Ohio St. 3d ___, 2010-Ohio-2424, ___ N.E.2d ___. In *Bodyke*, the Supreme Court found the Adam Walsh Act unconstitutional and stated: “R.C. 2950.031 and 2950.032 may not be applied to offenders previously adjudicated by judges under Megan’s Law, and the classifications and community-notification and registration orders imposed previously by judges are reinstated.”

{¶16} The State agrees this case must be reversed. In light of *Bodyke*, we find the court should not have dismissed appellant's petition.

{¶17} The assignment of error is sustained.

{¶18} For the foregoing reasons, the judgment of the Court of Common Pleas of Licking County, Ohio is reversed and remanded with instructions to proceed according to law and consistent with this opinion.

By: Gwin, P.J.,

Hoffman, J., and

Farmer, J., concur

HON. W. SCOTT GWIN

HON. WILLIAM B. HOFFMAN

HON. SHEILA G. FARMER

IN THE COURT OF APPEALS FOR LICKING COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	
	:	
Plaintiff-Appellee	:	
	:	
-vs-	:	JUDGMENT ENTRY
	:	
GERALD LEE RINE, JR.	:	
	:	
Defendant-Appellant	:	CASE NO. 2010-CA-52

For the reasons stated in our accompanying Memorandum-Opinion, the judgment of the Court of Common Pleas of Licking County, Ohio is reversed and remanded with instructions to proceed according to law and consistent with this opinion. Costs to appellee.

HON. W. SCOTT GWIN

HON. WILLIAM B. HOFFMAN

HON. SHEILA G. FARMER