

IN THE COURT OF APPEALS OF MONTGOMERY COUNTY, OHIO

STATE OF OHIO :
Plaintiff-Appellee : C.A. CASE NO. 23255
vs. : T.C. CASE NO. 08CV895
STEPHEN A. KROPFF : (Criminal Appeal from
Defendant-Appellant : Common Pleas Court)

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O P I N I O N

Rendered on the 9th day of July, 2010.

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Attorneys for Plaintiff-Appellee

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GRADY, J.:

{¶ 1} Defendant, Stephen A. Kropff, appeals from an order of the court of common pleas that denied Defendant's petition challenging his reclassification as a Tier II sex offender.

{¶ 2} Defendant was convicted on May 27, 2003, in Logan County,

Ohio, of two charges of gross sexual imposition. He was sentenced to serve two concurrent four-year prison terms. The court also classified Defendant as a sexually-oriented offender and ordered him to comply with the statutory post-release registration requirements his classification entailed.

{¶ 3} On November 26, 2007, following completion of his prison terms, Defendant was notified by the Attorney General of Ohio of his reclassification pursuant to R.C. 2950.031 as a Tier II sex offender and of the new and different statutory registration requirements that reclassification imposed. Defendant filed a petition contesting his reclassification on multiple constitutional grounds. The common pleas court denied the petition on February 5, 2009. Defendant filed a notice of appeal.

ASSIGNMENT OF ERROR

{¶ 4} "THE RETROACTIVE APPLICATION OF SENATE BILL 10 VIOLATES THE EX POST FACTO, DUE PROCESS, AND DOUBLE JEOPARDY CLAUSES OF THE UNITED STATES CONSTITUTION AND THE RETROACTIVITY CLAUSE OF SECTION 28, ARTICLE II OF THE OHIO CONSTITUTION, FIFTH, EIGHT, AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION; SECTION 10, ARTICLE I OF THE UNITED STATES CONSTITUTION; AND SECTIONS 10 AND 28, ARTICLES I AND II, RESPECTIVELY, OF THE OHIO CONSTITUTION."

{¶ 5} On June 3, 2010, the Supreme Court of Ohio rendered its

decision in *State v. Bodyke*, ___ Ohio St.3d ___, 2010-Ohio-2424, holding that the parallel reclassification provisions of R.C. 2950.031 and 2950.032 are unconstitutional as those provisions apply to sex offenders whose cases were adjudicated prior to July 1, 2007, the date on which those sections became effective through the enactment of S.B. 10. *Bodyke* severed the reclassification provisions of those sections from R.C. Chapter 2950, reversed the reclassification involved, and ordered the classifications and registration orders previously imposed on persons convicted of sex offenses prior to July 1, 2007 reinstated. *Bodyke*, ¶66.

{¶6} Pursuant to *Bodyke*, and in accordance with our holding in *State v. Robins*, Montgomery App. No. 23473, 2010-Ohio-2842, we reverse the judgment from which this appeal was taken that denied Defendant Kropff's challenge to his reclassification by the Attorney General. No further relief is necessary, inasmuch as, per *Bodyke*, Defendant's 2003 classification as a sexually-oriented offender is reinstated by default.

FAIN, J. And FROELICH, J., concur.

Copies mailed to:

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Hon. Dennis J. Langer