

[Cite as *State v. Lawson*, 2011-Ohio-1255.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio,	:	
	:	
Plaintiff-Appellee,	:	
	:	No. 09AP-672
v.	:	(C.P.C. No. 01CR-02-1160)
	:	
Jerry G. Lawson,	:	(REGULAR CALENDAR)
	:	
Defendant-Appellant.	:	

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D E C I S I O N

Rendered on March 17, 2011

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*Ron O'Brien*, Prosecuting Attorney, and *Steven L. Taylor*, for appellee.

*Yeura R. Venters*, Public Defender, and *Paul Skendelas*, for appellant.

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APPEAL from the Franklin County Court of Common Pleas.

FRENCH, J.

{¶1} Defendant-appellant, Jerry G. Lawson ("appellant"), appeals the judgment of the Franklin County Court of Common Pleas, which denied his petition to contest his reclassification as a Tier III sex offender. For the following reasons, we reverse the trial court's judgment and remand the matter with instructions.

{¶2} In October 2001, appellant pleaded guilty to two counts of gross sexual imposition and one count of endangering children. After a hearing, the court designated him a sexual predator pursuant to the sex offender classification laws in effect at that time. Afterward, S.B. 10 amended the sex offender classification laws in response to the federal Adam Walsh Act. S.B. 10 divided sex offenders into three tiers based solely on the crime committed, and it directed the attorney general to reclassify sex offenders who had already been classified by court order under prior law. The attorney general reclassified appellant a Tier III sex offender under S.B. 10. Appellant filed a petition to contest the reclassification, claiming that it was unconstitutional, including under the separation-of-powers doctrine in the state constitution. The trial court rejected appellant's constitutional challenges and denied his petition to contest reclassification.

{¶3} Appellant appeals, raising one assignment of error:

The trial court erred in failing to find that S.B. 10 violates the separation of powers doctrine of the Ohio Constitution.

{¶4} In his sole assignment of error, appellant argues that his reclassification under S.B. 10 violates the separation-of-powers doctrine. We agree.

{¶5} S.B. 10, through R.C. 2950.031 and 2950.032, directed the attorney general to reclassify sex offenders who had already been judicially classified under prior law. R.C. 2950.031 would apply if the sex offender had registered an address for his residence, school or employment, and R.C. 2950.032 would apply if, like appellant, the offender is in prison for a sex-related crime. According to the Supreme Court of Ohio, however, those statutes violate the separation-of-powers doctrine in the state constitution because they enabled the executive branch to reopen and review past

decisions of the judicial branch. *State v. Bodyke*, 126 Ohio St.3d 266, 2010-Ohio-2424, paragraphs two and three of the syllabus. Consequently, the court severed R.C. 2950.031 and 2950.032 from S.B. 10. *Bodyke* at ¶66. This court has repeatedly recognized that, pursuant to *Bodyke*, reclassifications made under the severed statutes are to be vacated, and the prior judicial classifications are to be reinstated. See *State v. Watkins*, 10th Dist. No. 09AP-669, 2010-Ohio-4187, ¶12-13; *State v. Houston*, 10th Dist. No. 09AP-592, 2010-Ohio-4374, ¶12-13; *State v. Jackson*, 10th Dist. No. 09AP-687, 2010-Ohio-4375, ¶10-11.

{¶6} Because appellant was reclassified a Tier III sex offender under R.C. 2950.032, which *Bodyke* deemed unconstitutional and unenforceable, the reclassification cannot stand. Therefore, we sustain appellant's assignment of error.

{¶7} Having sustained appellant's assignment of error, we reverse the judgment of the Franklin County Court of Common Pleas and remand this cause to that court with instructions to (1) vacate appellant's Tier III sex offender classification under S.B. 10, and (2) reinstate his prior classification as a sexual predator.

*Judgment reversed;  
cause remanded with instructions.*

BRYANT, P.J., and DORRIAN, J., concur.

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