

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Douglas E. Powell,	:	
	:	
Petitioner-Appellant,	:	
	:	
v.	:	No. 10AP-640
	:	(C.P.C. No. 09MS-04-176)
State of Ohio,	:	
	:	(REGULAR CALENDAR)
Respondent-Appellee.	:	

D E C I S I O N

Rendered on March 24, 2011

Yeura R. Venters, Public Defender, and *David L. Strait*, for appellant.

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

APPEAL from the Franklin County Court of Common Pleas

TYACK, J.

{¶1} Douglas E. Powell is appealing from the dismissal of his reclassification petition. He assigns a single error for our consideration:

The trial court erred in dismissing Appellant's reclassification petition as moot in lieu of granting judgment in his favor, following the decision of the Ohio Supreme Court in *State v. Bodyke*, [126] Ohio St.3d [266], 2010-Ohio-2424.

{¶2} This appellate court has addressed this precise issue in several cases recently, especially *Cook v. State of Ohio*, 10th Dist. No. 10AP-641, 2011-Ohio-906. We have determined that because the Supreme Court of Ohio did not dismiss the many cases pending before it at the time it decided *State v. Bodyke*, 126 Ohio St.3d 266, 2010-Ohio-2424, the Supreme Court did not intend to nullify the petition process as to cases pending when *Bodyke* was decided and found that R.C. 2950.031(E) and 2950.032(E) should be severed from the statutes regarding reclassifications. We will follow the *Cook* case in appellant's case also.

{¶3} The sole assignment of error is sustained. The case is remanded to the trial court with instructions to grant the reclassification petition of Douglas E. Powell.

*Judgment reversed and remanded
with instructions.*

BRYANT, P.J., and CONNOR, J., concur.
