

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
WOOD COUNTY

State of Ohio

Court of Appeals No. WD-07-082

Appellee

Trial Court No. 2007CR0328

v.

James Dombrosky

DECISION AND JUDGMENT

Appellant

Decided: December 12, 2008

* * * * *

Raymond C. Fischer, Wood County Prosecuting Attorney,
Heather M. Baker and Jacqueline M. Kirian, Assistant
Prosecuting Attorneys, for appellee.

William V. Stephenson, for appellant.

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HANDWORK, J.

{¶ 1} This case is before the court on appeal from a judgment of the Wood County Court of Common Pleas, wherein appellant, James Dombrosky, pled guilty to: (1) Count 1-gross sexual imposition, in violation of R.C. 2907.05(A)(4), a felony of the third degree; (2) Count 3-disseminating matter harmful to juveniles with a specification

that he compelled his victim to submit by force or threat of force in violation of R.C. 2907.31(A)(1), a felony of the fourth degree; and (3) Count 4-voyeurism, in violation of R.C. 2907.08, a misdemeanor of the third degree.

{¶ 2} On November 21, 2007, the court sentenced appellant to serve concurrent terms of three years on Count 1, seventeen months on Count 3, and sixty days on Count 4. The court classified appellant as a sexually oriented offender for purposes of sex offender registration and notification in accordance with R.C. Chapter 2950 in effect at the time of sentencing. For the reason set forth below, this court affirms the judgment of the trial court.

{¶ 3} Appellant filed a notice of appeal on December 19, 2007. Appellant asserts the following sole assignment of error:

{¶ 4} "REVISED CODE 2950 et seq., AS AMENDED BY SB10 [sic] IS UNCONSTITUTIONAL."

{¶ 5} In his sole assignment of error, appellant challenges the constitutionality of Senate Bill 10 ("S.B. 10"). However, at the time of appellant's sentencing and classification hearing, S.B. 10, which amends Ohio's sex offender classification and registration laws as set forth in R.C. Chapter 2950, was not yet in effect. The effective date of S.B. 10 was January 1, 2008. The trial court's sentencing judgment entry reflects that appellant was classified as a sexually oriented offender under the version of R.C. Chapter 2950 in effect at that time, to be reviewed by the Ohio Department of

Rehabilitation and Corrections after January 1, 2008. It is from that judgment that appellant appealed.

{¶ 6} This court has declined to review the merits of constitutional challenges to S.B. 10 brought by offenders classified under R.C. Chapter 2950 prior to January 1, 2008. See *State v. Taft*, 6th Dist. No. WD-07-059, 2008-Ohio-5790, ¶ 6, citing *State v. Horch*, 3d Dist. No. 15-07-47, 2008-Ohio-1484, ¶ 8. In *Taft*, we determined that the constitutional challenges were premature because the appellant in that case had not yet suffered any injury under S.B. 10. *Id.* at ¶ 6 and 7 (citations omitted). As in *Taft*, appellant fails to offer any evidence of injury due to S.B. 10; therefore, his constitutional challenges to that statute are premature. Accordingly, appellant's sole assignment of error is found not well-taken.

{¶ 7} On consideration whereof, the judgment of the Wood County Court of Common Pleas is affirmed. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24. Judgment for the clerk's expense incurred in preparation of the record, fees allowed by law, and the fee for filing the appeal is awarded to Wood County.

JUDGMENT AFFIRMED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4.

Peter M. Handwork, J.

JUDGE

Arlene Singer, J.

JUDGE

Thomas J. Osowik, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.