

IN RE SEXUAL OFFENDER RECLASSIFICATION CASES.

**[Cite as *In re Sexual Offender Reclassification Cases*,
126 Ohio St.3d 322, 2010-Ohio-3753.]**

*Sexual offender reclassifications pursuant to R.C. 2950.031 and 2950.032 —
“Adam Walsh Act” — Disposition of cases accepted and held for the
decisions in State v. Bodyke and Chojnacki v. Cordray.*

(Submitted August 10, 2010 — Decided August 17, 2010.)

{¶ 1} The following dispositions of currently pending appeals and certified conflicts are hereby entered based on our decision in *State v. Bodyke*, 126 Ohio St.3d 266, 2010-Ohio-2424, ___ N.E.2d ___.

BROWN, C.J., and PFEIFER, LUNDBERG STRATTON, O’CONNOR, O’DONNELL, LANZINGER, and CUPP, JJ., concur.

I.

{¶ 2} The judgments of the courts of appeals in the following cases are affirmed, because the courts of appeals held the Adam Walsh Act to be unconstitutional expressly on separation-of-powers grounds.

{¶ 3} 2009-1213. *Spangler v. State*, Lake App. No. 2008-L-062, 2009-Ohio-3178. Lanzinger, J., not participating.

{¶ 4} 2009-1498. *McCostlin v. State*, Lake App. No. 2008-L-117, 2009-Ohio-4097. Lanzinger, J., not participating.

{¶ 5} 2009-1582. *State v. Garner*, Lake App. No. 2008-L-087, 2009-Ohio-4448.

II.

{¶ 6} The certified questions in the following cases are answered in the affirmative, and the judgments of the courts of appeals are affirmed, because the

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courts of appeals held the Adam Walsh Act to be unconstitutional expressly on separation-of-powers grounds.

{¶ 7} 2009-1682 and 2009-2026. *Naples v. State*, Trumbull App. No. 2008-T-0092, 2009-Ohio-3938.

{¶ 8} 2009-1827 and 2009-2027. *State v. Grate*, Trumbull App. No. 2008-T-0058, 2009-Ohio-4452.

III.

{¶ 9} The judgments of the courts of appeals in the following cases are affirmed in judgment only, because the courts of appeals held the Adam Walsh Act to be unconstitutional on rationales other than the separation-of-powers doctrine.

{¶ 10} 2009-1290. *State v. Ettenger*, Lake App. No. 2008-L-054, 2009-Ohio-3525. Lanzinger, J., not participating.

{¶ 11} 2009-1798. *Thomas v. State*, Lake App. No. 2008-L-026, 2009-Ohio-5209. Lanzinger, J., not participating.

{¶ 12} 2009-1799. *State v. Bache*, Lake App. No. 2008-L-061, 2009-Ohio-5211.

IV.

{¶ 13} The first certified question in the following case is answered in the affirmative and the judgment of the court of appeals is affirmed in judgment only. The court declines to answer the remaining certified questions.

{¶ 14} 2009-2030 and 2009-2325. *Pollis v. State*, Trumbull App. No. 2008-T-0055, 2009-Ohio-5058.

V.

{¶ 15} The judgments of the courts of appeals in the following cases are reversed as to those portions of the judgments that rejected constitutional challenges to the Adam Walsh Act on separation-of-powers grounds, and the

causes are remanded to the trial courts for further proceedings, if any, necessitated by *State v. Bodyke*.

{¶ 16} 2009-0236. *State v. Netherland*, Ross App. No. 08CA3043, 2008-Ohio-7007.

{¶ 17} 2009-0355. *State v. Randlett*, Ross App. No. 08CA3046, 2009-Ohio-112.

{¶ 18} 2009-0427. *State v. Ellis*, Cuyahoga App. No. 90844, 2008-Ohio-6283.

{¶ 19} 2009-0451. *State v. Brown*, Cuyahoga App. No. 90798, 2009-Ohio-127.

{¶ 20} 2009-0488. *State v. Sewell*, Ross App. No. 08CA3042, 2009-Ohio-594.

{¶ 21} 2009-0806. *Engels v. State*, Hamilton App. No. C-080725.

{¶ 22} 2009-1002. *Brooks v. State*, Lorain App. No. 08CA009452, 2009-Ohio-1825.

{¶ 23} 2009-1010. *Moran v. State*, Clermont App. No. CA2008-05-057, 2009-Ohio-1840.

{¶ 24} 2009-1014. *West v. State*, Hamilton App. No. C-080612.

{¶ 25} 2009-1032. *Foster v. State*, Hamilton App. No. C-080651.

{¶ 26} 2009-1058. *Sigler v. State*, Richland App. No. 08-CA-79, 2009-Ohio-2010.

{¶ 27} 2009-1086. *Gildersleeve v. State*, Cuyahoga App. Nos. 91515, 91516, 91517, 91518, 91519, 91521, 91522, 91523, 91524, 91525, 91526, 91527, 91528, 91529, 91530, 91531, and 91532, 2009-Ohio-2031.

{¶ 28} 2009-1433. *Culgan v. State*, Richland App. No. 08-CA-217, 2009-Ohio-3570.

{¶ 29} 2009-1467. *State v. Maggy*, Trumbull App. No. 2008-T-0078, 2009-Ohio-3180. Lanzinger, J., not participating.

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{¶ 30} 2009-1483. *Biggs v. State*, Richland App. No. 08-CA-224, 2009-Ohio-3404.

{¶ 31} 2009-1545. *Webster v. State*, Richland App. No. 2008 CA 0163, 2009-Ohio-3568.

{¶ 32} 2009-1550. *Welker v. State*, Richland App. No. 08-CA-262, 2009-Ohio-3632.

{¶ 33} 2009-1554. *Harrison v. State*, Cuyahoga App. No. 92095, 2009-Ohio-3467.

{¶ 34} 2009-1580. *State v. Hitchcock*, Lake App. No. 2008-L-032, 2009-Ohio-4447.

{¶ 35} 2009-1581. *Sears v. State*, Clermont App. No. CA2008-07-068, 2009-Ohio-3541.

{¶ 36} 2009-1585. *Dunbar v. State*, Richland App. No. 2008CA0173, 2009-Ohio-3838.

{¶ 37} 2009-1622. *State v. Aleshire*, Ross App. No. 09CA3093, 2009-Ohio-3921.

{¶ 38} 2009-1628. *In re J.M.*, Cuyahoga App. No. 91800, 2009-Ohio-2880.

{¶ 39} 2009-1657. *State v. Curd*, Lake App. No. 2008-L-048, 2009-Ohio-3814. Lanzinger, J., not participating.

{¶ 40} 2009-1668. *Elko v. State*, Richland App. No. 2008CA0220, 2009-Ohio-4557.

{¶ 41} 2009-1691. *State v. Vernon*, Lake App. No. 2008-L-066, 2009-Ohio-3937. Lanzinger, J., not participating.

{¶ 42} 2009-1699. *Ahmed v. State*, Richland App. No. 2008 CA 0165, 2009-Ohio-3989.

{¶ 43} 2009-1700. *Douse v. State*, Richland App. No. 2008 CA 324, 2009-Ohio-3997.

{¶ 44} 2009-1725. *Mundt v. State*, Richland App. No. 2008CA0263, 2009-Ohio-4056.

{¶ 45} 2009-1737. *Taylor v. State*, Richland App. No. 2008CA0161, 2009-Ohio-4141.

{¶ 46} 2009-1738. *Ball v. State*, Lake App. No. 2008-L-053, 2009-Ohio-4099. Lanzinger, J., not participating.

{¶ 47} 2009-1797. *Bertram v. State*, Lake App. No. 2008-L-037, 2009-Ohio-5210.

{¶ 48} 2009-1845. *State v. Kasunick*, Lake App. No. 2008-L-056, 2009-Ohio-4449. Lanzinger, J., not participating.

{¶ 49} 2009-1856. *State v. Petralia*, Lake App. No. 2008-L-095, 2009-Ohio-4450. Lanzinger, J., not participating.

{¶ 50} 2009-1864. *McKinney v. State*, Warren App. No. CA2009-04-041, 2009-Ohio-4685.

{¶ 51} 2009-1887. *Searles v. State*, Warren App. No. CA2009-05-055, 2009-Ohio-4666.

{¶ 52} 2009-2108. *Burbrink v. State*, Hamilton App. No. C-081075.

{¶ 53} 2009-2113. *Lohman v. State*, Hamilton App. No. C-080957.

{¶ 54} 2009-2114. *Johnson v. State*, Hamilton App. No. C-080997.

{¶ 55} 2009-2135. *State v. Bundy*, Montgomery App. Nos. 23063 and 23064, 2009-Ohio-5395.

{¶ 56} 2009-2163. *Roy v. State*, Butler App. No. CA2009-02-067, 2009-Ohio-5808.

{¶ 57} 2009-2221. *Cramer v. State*, Warren App. No. CA2009-06-080.

{¶ 58} 2010-0027. *In re D.P.*, Lake App. No. 2008-L-186, 2009-Ohio-6149. Lanzinger, J., not participating.

{¶ 59} 2010-0029. *In re R.J.G.*, Lake App. No. 2008-L-187, 2009-Ohio-6150. Lanzinger, J., not participating.

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- {¶ 60} 2010-0096. *Gentry v. State*, Hamilton App. No. C-081311.
- {¶ 61} 2010-0097. *Dunn v. State*, Hamilton App. No. C-081310.
- {¶ 62} 2010-0098. *Hill v. State*, Hamilton App. No. C-081289.
- {¶ 63} 2010-0100. *Robinson v. State*, Hamilton App. No. C-090002.
- {¶ 64} 2010-0101. *Moore v. State*, Hamilton App. No. C-081290.
- {¶ 65} 2010-0102. *Scheuermann v. State*, Hamilton App. No. C-081291.
- {¶ 66} 2010-0103. *Springer v. State*, Hamilton App. No. C-081305.
- {¶ 67} 2010-0104. *Stafford v. State*, Hamilton App. No. C-081270.
- {¶ 68} 2010-0105. *Gibson v. State*, Hamilton App. No. C-081269.
- {¶ 69} 2010-0106. *Ajamu v. State*, Hamilton App. No. C-081271.
- {¶ 70} 2010-0195. *Janson v. State*, Hamilton App. No. C-090039.
- {¶ 71} 2010-0196. *Hall v. State*, Hamilton App. No. C-090021.
- {¶ 72} 2010-0197. *Ellison v. State*, Hamilton App. No. C-090017.
- {¶ 73} 2010-0199. *Santoro v. State*, Hamilton App. No. C-090022.
- {¶ 74} 2010-0200. *Cody v. State*, Hamilton App. No. C-090010.
- {¶ 75} 2010-0201. *Short v. State*, Hamilton App. No. C-090016.
- {¶ 76} 2010-0202. *Zieger v. State*, Hamilton App. No. C-090023.
- {¶ 77} 2010-0203. *Nero v. State*, Hamilton App. No. C-090024.
- {¶ 78} 2010-0204. *Jones v. State*, Hamilton App. No. C-090045.
- {¶ 79} 2010-0205. *Fairbanks v. State*, Hamilton App. No. C-090005.
- {¶ 80} 2010-0206. *Claxton v. State*, Hamilton App. No. C-090004.
- {¶ 81} 2010-0207. *Jackson v. State*, Hamilton App. No. C-081306.
- {¶ 82} 2010-0256. *In re McClurg*, Hamilton App. No. C-081233.
- {¶ 83} 2010-0262. *James v. State*, Hamilton App. No. C-090129.
- {¶ 84} 2001-0263. *Tillman v. State*, Hamilton App. No. C-081276.
- {¶ 85} 2010-0264. *Faulkner v. State*, Hamilton App. No. C-090130.
- {¶ 86} 2010-0265. *Turner v. State*, Hamilton App. No. C-090105.

{¶ 87} 2010-0274. *State v. Rice*, Lake App. No. 2008-L-105, 2009-Ohio-6999. Lanzinger, J., not participating.

{¶ 88} 2010-0285. *Adamson v. State*, Lake App. No. 2008-L-045, 2009-Ohio-6996. Lanzinger, J., not participating.

{¶ 89} 2010-0291. *Hungerford v. State*, Lake App. No. 2008-L-073, 2009-Ohio-6997. O'Connor and Lanzinger, JJ., not participating.

VI.

{¶ 90} The certified question in the following case is answered in the affirmative, the judgment of the court of appeals is reversed as to that portion of the judgment that rejected the constitutional challenge to the Adam Walsh Act on separation-of-powers grounds, and the cause is remanded to the trial court for further proceedings, if any, necessitated by *State v. Bodyke*.

{¶ 91} 2009-1525 and 2009-1832. *Smallwood v. State*, Butler App. No. CA2009-02-057, 2009-Ohio-3682.

VII.

{¶ 92} The first certified question in the following case is answered in the affirmative, the judgment of the court of appeals is reversed as to that portion of the judgment that rejected the constitutional challenge to the Adam Walsh Act on separation-of-powers grounds, and the cause is remanded to the trial court for further proceedings, if any, necessitated by *State v. Bodyke*. The court declines to answer the remaining certified questions.

{¶ 93} 2009-2078 and 2010-0023. *State v. Russell*, Trumbull App. No. 2008-T-0074, 2009-Ohio-5213.

VIII.

{¶ 94} The discretionary appeals are accepted in the following cases on the proposition of law noted, the judgments of the courts of appeals are reversed as to those portions of the judgments that rejected constitutional challenges to the

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Adam Walsh Act on separation-of-powers grounds, and the causes are remanded to the trial courts for further proceedings, if any, necessitated by *State v. Bodyke*.

{¶ 95} 2010-0404. *Miller v. State*, Hamilton App. No. C-090131. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 96} 2010-0405. *Masterson v. State*, Hamilton App. No. C-090175. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 97} 2010-0406. *Brannon v. State*, Hamilton App. No. C-090141. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 98} 2010-0407. *James v. State*, Hamilton App. No. C-090176. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 99} 2010-0410. *Bender v. State*, Hamilton App. No. C-090188. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 100} 2010-0411. *Pickett v. State*, Hamilton App. No. C-090212. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 101} 2010-0412. *Thompson v. State*, Hamilton App. No. C-090106. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 102} 2010-0413. *Fleming v. State*, Hamilton App. No. C-090107. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 103} 2010-0417. *Averill v. State*, Hamilton App. No. C-090058. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 104} 2010-0418. *Bodon v. State*, Hamilton App. No. C-090266. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 105} 2010-0419. *Weatherspoon v. State*, Hamilton App. No. C-090142. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 106} 2010-0420. *Harris v. State*, Hamilton App. No. C-090052. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 107} 2010-0424. *Brozell v. State*, Hamilton App. No. C-090187. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 108} 2010-0477. *Howell v. State*, Hamilton App. No. C-090003. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 109} 2010-0478. *White v. State*, Hamilton App. No. C-090177. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 110} 2010-0549. *State v. Hutchinson*, Stark App. No. 2009CA00174, 2010-Ohio-537. Proposition of Law No. II.

{¶ 111} 2010-0565. *In re Rodney C.*, Licking App. No. 09 CA 71, 2010-Ohio-646. Proposition of Law No. IV.

{¶ 112} 2010-0589. *Thomas v. State*, Hamilton App. No. C-090267. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

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{¶ 113} 2010-0613. *State v. Zerla*, Jefferson App. No. 08 JE 8, 2010-Ohio-749. Proposition of Law No. III.

{¶ 114} 2010-0629. *Beck v. State*, Hamilton App. No. C-090213, 2010-Ohio-669. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 115} 2010-0715. *Russ v. State*, Hamilton App. No. C-090046. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 116} 2010-0716. *Robinson v. State*, Hamilton App. No. C-090301. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 117} 2010-0758. *Paster v. State*, Hamilton App. No. C-090322. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 118} 2010-0759. *Collier v. State*, Hamilton App. No. C-090394. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 119} 2010-0760. *Pelcha v. State*, Hamilton App. No. C-090474. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 120} 2010-0761. *Valle v. State*, Hamilton App. No. C-090244. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 121} 2010-0762. *Deaton v. State*, Hamilton App. No. C-090028. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 122} 2010-0763. *Hatton v. State*, Hamilton App. No. C-090395. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 123} 2010-0767. *Pfaehler v. State*, Hamilton App. No. C-090417. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 124} 2010-0820. *Barnes v. State*, Hamilton App. No. C-090030. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 125} 2010-0821. *Griffin v. State*, Hamilton App. No. C-090031. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 126} 2010-0822. *Divo v. State*, Hamilton App. No. C-090396. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 127} 2010-0834. *Smith v. State*, Hamilton App. No. C-090264. Proposition of Law No. III.

{¶ 128} 2010-0842. *Powell v. State*, Hamilton App. No. C-090469. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 129} 2010-0843. *Martin v. State*, Hamilton App. No. C-090437. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

{¶ 130} 2010-0844. *Frost v. State*, Hamilton App. No. C-090486. Proposition of Law No. III. Motion for stay of jurisdictional consideration denied as moot.

IX.

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{¶ 131} The judgments of the courts of appeals in the following cases are vacated, and the causes are remanded to the trial courts for further proceedings consistent with *State v. Bodyke*.

{¶ 132} 2009-1423. *State v. Ritchey*, Franklin App. No. 08AP-923, 2009-Ohio-2988.

{¶ 133} 2009-1623. *State v. Gruszka*, Lorain App. No. 08CA009515, 2009-Ohio-3926.

{¶ 134} 2010-0148. *State v. Downing*, Franklin App. No. 09AP-420, 2009-Ohio-6482.

X.

{¶ 135} The judgments of the courts of appeals in the following cases are reversed as to those portions of the judgments that rejected constitutional challenges to the Adam Walsh Act on separation-of-powers grounds, and the causes are remanded to the trial courts to reinstate appellants' original sex offender classifications and concomitant registration and reporting requirements. Appellants' first Propositions of Law are rendered moot by *State v. Bodyke*.

{¶ 136} 2009-0446. *State v. Messer*, Ross App. No. 08CA3050, 2009-Ohio-312.

{¶ 137} 2009-0448. *State v. Linville*, Ross App. No. 08CA3051, 2009-Ohio-313.

{¶ 138} 2009-1342. *State v. Case*, Huron App. No. H-08-009, 2009-Ohio-2923.

XI.

{¶ 139} The judgment of the court of appeals in the following case is reversed as to that portion of the judgment that upheld appellant's reclassification under the Adam Walsh Act, and the cause is remanded to the trial court to reinstate appellant's original sex offender classification and concomitant

registration and reporting requirements. Appellant's Proposition of Law raising a right to counsel in a reclassification hearing is rendered moot by *State v. Bodyke*.

{¶ 140} 2010-0004. *State v. Sprauer*, Ross App. No. 09CA3121, 2009-Ohio-6698.

XII.

{¶ 141} The judgment of the court of appeals in the following case is affirmed in judgment only, because the court of appeals held the Adam Walsh Act to be unconstitutional on a rationale other than the separation-of-powers doctrine. The court does not reach appellant's other claims because appellee will not be subject to reclassification.

{¶ 142} 2009-1860. *State v. Strickland*, Lake App. No. 2008-L-034, 2009-Ohio-5424.

XIII.

{¶ 143} The following case is remanded to the trial court consistent with the opinion of the court of appeals.

{¶ 144} 2010-0162. *State v. Parks*, Trumbull App. No. 2008-T-0119, 2009-Ohio-7001.
