

[Cite as *State v. Rebholz*, 2014-Ohio-2429.]

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-130636
	:	TRIAL NO. C-12CRB-34335
Plaintiff-Appellee,	:	
vs.	:	
	:	<i>OPINION.</i>
ANDREW REBHOLZ,	:	
Defendant-Appellant.	:	

Criminal Appeal From: Hamilton County Municipal Court

Judgment Appealed From Is: Reversed, Conviction Vacated, and Appellant
Discharged

Date of Judgment Entry on Appeal: June 6, 2014

Joseph T. Deters, Hamilton County Prosecuting Attorney, and *Paula E. Adams*,
Assistant Prosecuting Attorney, for Plaintiff-Appellee,

T. Martin Jennings, for Defendant-Appellant.

Please note: we have removed this case from the accelerated calendar.

DINKELACKER, Judge.

{¶1} Defendant-appellant Andrew Rebholz was charged with criminal child enticement under R.C. 2905.05(A). He subsequently filed a motion to dismiss the charge in which he argued that R.C. 2905.05 was unconstitutional on its face and as applied to him. The trial court denied the motion. Following a bench trial, the trial court found him guilty and sentenced him. This appeal followed.

{¶2} In his sole assignment of error, Rebholz contends that the trial court erred in denying his motion to dismiss. He argues that R.C. 2505.05 is overbroad and unconstitutional on its face. This assignment of error is well taken.

{¶3} After this appeal was filed, the Ohio Supreme Court held in *State v. Romage*, 138 Ohio St.3d 390, 2014-Ohio-783, 7 N.E.3d 1156, that “Ohio’s child-enticement statute, R.C. 2505.05(A) is unconstitutionally overbroad because it sweeps within its prohibition a significant amount of constitutionally protected activity.” *Id.* at syllabus.

{¶4} Under the doctrine of stare decisis, we are bound by the Supreme Court’s decision. *State v. Bethel*, 10th Dist. Franklin No. 07AP-810, 2008-Ohio-2697, ¶ 25-28; *Cincinnati ex rel. Crotty v. Cincinnati*, 1st Dist. Hamilton No. C-76179, 1976 Ohio App. LEXIS 8553, *10 (May 19, 1976), *overruled on other grounds*, 50 Ohio St.2d 27, 361 N.E.2d 1340 (1977). Consequently, we sustain Rebholz’s assignment of error. We reverse the trial court’s judgment denying Rebholz’s motion to dismiss the charge, vacate Rebholz’s conviction, and order him discharged from further prosecution for this offense.

Judgment reversed, conviction vacated, and appellant discharged.

HENDON, P.J., and DEWINE, J., concur.

Please note:

The court has recorded its entry on the date of the release of this opinion.