

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Respondent-Appellee

-vs-

RICHARD D. HUTCHISON

Petitioner-Appellant

JUDGES:

Hon. William B. Hoffman, P.J.

Hon. Sheila G. Farmer, J.

Hon. John W. Wise, J.

Case No. 2009CA00174

O P I N I O N

CHARACTER OF PROCEEDING:

Appeal from the Stark County Court of
Common Pleas, Case No. 2008CV00468

JUDGMENT:

Affirmed

DATE OF JUDGMENT ENTRY:

February 16, 2010

APPEARANCES:

For Respondent-Appellee

For Petitioner-Appellant

JOHN D. FERRERO
Stark County Prosecuting Attorney

RICHARD D. HUTCHINSON
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Hoffman, P.J.

{¶1} Petitioner-appellant Richard D. Hutchison appeals the June 3, 2009 Judgment Entry of the Stark County Court of Common Pleas dismissing his petition to contest application of the Adam Walsh Act. Respondent-appellee is the State of Ohio.

STATEMENT OF THE CASE

{¶2} Appellant was convicted of one count of sexual battery and one count of felonious assault in the Tuscarawas County Court of Common Pleas on December 14, 2000. On January 24, 2001, the trial court sentenced Appellant to seven years in prison, and required he register as a sexual offender.

{¶3} On November 30, 2007, Appellant received a Notice of New Classification and Registration Duties, based on Ohio's Adam Walsh Act, regarding his sex offender status. The notice indicated Appellant was being classified a Tier III sex offender.

{¶4} On January 25, 2008, Appellant filed a Petition to Contest Application of the Adam Walsh Act with the Stark County Court of Common Pleas pursuant to R.C. 2950.031(E) and 2950.032(E). Appellant alleges the law violates the prohibition on ex post facto laws in the United States Constitution; violates the Separation of Powers doctrine; constitutes impermissible multiple punishment under the double jeopardy clauses of the United States and Ohio constitutions; and violates the right to contract under the United States and Ohio constitutions.

{¶5} On June 3, 2009, the trial court dismissed Appellant's petition, citing this Court's prior opinions in *In re Adrian R.*, Licking App. No. 08-CA-17, 2008-Ohio-658, appealed allowed, 121 Ohio St.3d 1472, 2009-Ohio-2045 and *Sigler v. State*, Richland

App. No. 08-CA-79, 2009-Ohio-2010, appeal allowed, 122 Ohio St.3d 1520, 2009-Ohio-4776 holding Senate Bill 10 is constitutional on all grounds challenged.

{¶16} Appellant now appeals, assigning as error:

{¶17} “I. THE TRIAL COURT ERRED BY FAILING TO GRANT RETROACTIVE APPLICATION OF OHIO’S AWA VIOLATES THE PROHIBITION ON EX POST FACTO LAWS IN ARTICLE 1, SECTION 10 OF THE U.S.C.

{¶18} “II. THE TRIAL COURT ERRED BY FAILING TO GRANT THE RETROACTIVE APPLICATION OF OHIO’S AWA VIOLATING PROHIBITION OF RETROACTIVE LAWS, ARTICLE II SECTION 28 OF THE OHIO CONST.

{¶19} “III. THE TRIAL COURT ERRED WHEN IT FAILED TO GRANT THE APPLICATION OF RECLASSIFICATION OF APPELLANT, WHICH CONSTITUTES VIOLATION THE THE [SIC] SEPERATION [SIC] OF POWERS DOCTRINE.

{¶10} “IV. THE TRIAL COURT ERRED WHEN IMPERMISSABLE [SIC] MULTIPLE PUNISHMENT, CONSTITUTES DOUBLE JEPORDY [SIC] UNDER THE U.S. AND OHIO CONSTITUTIONS.

{¶11} “V. THE TRIAL COURT ERRED WHEN RECLASSIFICATION OF APPELLANT CONSTITUTES A BREACH OF CONTRACT UNDER OHIO AND U.S. CONSTITUTIONS.

{¶12} “VI. THE TRIAL COURT ERRED WHEN RESIDENCY RESTRICTION OF THE AWA VIOLATES DUE PROCESS.”

I, II, III, IV, V, and VI

{¶13} This Court has examined the identical arguments as set forth by Appellant and has rejected them. See, *State v. Gooding*, Coshocton App. No. 08CA5, 2008-Ohio-

5954; *In re Adrian R.*, Licking App. No. 08-CA-17, 2008-Ohio-6581; See also, *Sigler v. State*, Richland App. No. 08CA79, 2009-Ohio-2010. Further, virtually every appellate district in this State has upheld the Adam Walsh Act against the arguments raised by Appellant herein. See, *State v. Graves*, 179 Ohio App.3d 107, 2008-Ohio-5763; *Holcomb v. State*, 3rd District, Nos. 8-08-23, 8-08-25, 8-08-26, 8-08-24, 2009-Ohio-782; *State v. Bodyke*, 6th District Nos. H-07-040, H07-041, H07-042, 2008-Ohio-6387; *State v. Byers*, 7th District No. 07CO39, 2008-Ohio-5051; *State v. Ellis*, 8th District No. 90844, 2008-Ohio-6283; *State v. Honey*, 9th District No. 08CA0018-M, 2008-Ohio-4943; *State v. Christian*, 10th District No. 08AP-170, 2008-Ohio-6304; *State v. Swank*, 11 District No. 2008-L-019, 2008-Ohio-6059; and *State v. Williams*, 12th District No. CA2008-02-029, 2008-Ohio-6195. We overrule all six of Appellant's assignments of error pursuant to the authorities listed above.

{¶14} The June 3, 2009 Judgment Entry of the Stark County Court of Common Pleas is affirmed.

By: Hoffman, P.J.

Farmer, J. and

Wise, J. concur

s/ William B. Hoffman
HON. WILLIAM B. HOFFMAN

s/ Sheila G. Farmer
HON. SHEILA G. FARMER

s/ John W. Wise
HON. JOHN W. WISE

IN THE COURT OF APPEALS FOR STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

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-vs-

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JUDGMENT ENTRY

Case No. 2009CA00174

For the reasons stated in our accompanying Opinion, the June 3, 2009 Judgment Entry of the Stark County Court of Common Pleas is affirmed. Costs to Appellant.

s/ William B. Hoffman
HON. WILLIAM B. HOFFMAN

s/ Sheila G. Farmer
HON. SHEILA G. FARMER

s/ John W. Wise
HON. JOHN W. WISE