

[Cite as *Mireles v. State*, 2010-Ohio-3078.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
Nos. 92302 and 92313

MARIO R. MIRELES (MIRALES)

PLAINTIFF-APPELLANT

VS.

STATE OF OHIO, ET AL.

DEFENDANTS-APPELLEES

**JUDGMENT:
REVERSED**

Civil Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CV-654876

BEFORE: Gallagher, A.J., Cooney, P.J., and Kilbane, J.

RELEASED: July 1, 2010

JOURNALIZED:

ATTORNEYS FOR APPELLANT

Thomas J. Escovar
L. Christopher Coleman
Patrick J. Ebner
Steuer, Escovar, Berk & Brown Co., L.P.A.
55 Public Square, Suite 1475
Cleveland, Ohio 44113

ATTORNEYS FOR APPELLEES

William D. Mason
Cuyahoga County Prosecutor

BY: Daniel T. Van
Assistant Prosecuting Attorney
The Justice Center, 8th Floor
1200 Ontario Street
Cleveland, Ohio 44113

N.B. This entry is an announcement of the court's decision. See App.R. 22(B) and 26(A); Loc.App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(C) unless a motion for reconsideration with supporting brief per App.R. 26(A), or a motion for consideration en banc with supporting brief per Loc.App.R. 25.1(B)(2), is filed within ten days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(C). See, also, S.Ct. Prac.R. 2.2(A)(1).

SEAN C. GALLAGHER, A.J.:

{¶ 1} Sua sponte, this court's stay in Appeal Nos. 92302 and 92313 is lifted.

{¶ 2} Appellant, Mario B. Mireles, challenges his reclassification as a Tier III sex offender through the retroactive application of Ohio's Senate Bill 10, the Adam Walsh Act. Pursuant to the Ohio Supreme Court decision in *State v. Bodyke*, Slip Op. No. 2010-Ohio-2424, "R.C. 2950.031 and 2950.032 may not be applied to offenders previously adjudicated by judges under Megan's Law, and the classifications and community-notification and registration orders imposed previously by judges are reinstated." Therefore, we reverse the decision of the trial court.

{¶ 3} We do not reach any additional constitutional challenges raised in Mireles's appeal. Also, in light of the application of *Bodyke*, we find no merit to the state's cross appeal, which pertains to community notification under the Adam Walsh Act. See, also, *State v. McConville*, 124 Ohio St.3d 556, 2010-Ohio-958, 925 N.E.2d 133.

Judgment reversed.

It is ordered that appellant recover from appellee costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to said court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

SEAN C. GALLAGHER, ADMINISTRATIVE JUDGE

COLLEEN CONWAY COONEY, P.J., and
MARY EILEEN KILBANE, J., CONCUR