In the
Supreme Court of Ohio

IN RE D.R.,	:	Case No. 2021-0934
	:	
Appellee,	:	On Appeal from the
	:	Hamilton County
	:	Court of Appeals,
	:	First Appellate District
	:	
	:	Court of Appeals
	:	Case No. C-190594

MERIT BRIEF OF *AMICUS CURIAE* OHIO ATTORNEY GENERAL DAVE YOST IN SUPPORT OF APPELLANT STATE OF OHIO

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TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Cases **Page(s)**

Statutes

INTRODUCTION

This case asks whether the United States or Ohio constitutions require the State to provide processes to protect a non-existent right. The answer is "no."

The question arises because of the First District's curious decision below. The State may, without violating the due-process guarantees of the United States and Ohio constitutions, require juvenile sex criminals to continue registering as sex offenders even after they complete their juvenile-court dispositions. This Court has said so. *See In re: D.S.*, 146 Ohio St. 3d 182, 2016-Ohio-1027 syl.¶3 & ¶37; *accord In re: Raheem L.*, 2013-Ohio-2423 ¶1 (1st Dist.) (Fischer, J.) (jurisdiction declined by *In re: Raheem L.*, 136 Ohio St. 3d 1560, 2013-Ohio-4861). Yet the First District, in its decision below, held that the right to due process guarantees juvenile sex criminals the right to have a juvenile court *consider* whether to terminate their registration requirements once they complete their juvenile dispositions. Thus, in the First District, juvenile offenders are now constitutionally entitled to a procedure (a hearing at which the court can immediately terminate sex-offender registration requirements) designed to protect a right (the right to an early termination of registration requirements) that the offenders lack. To prevent the distortion of this Court's due-process caselaw, the Court should reverse.

STATEMENT OF AMICUS INTEREST

The Attorney General is Ohio's chief law enforcement officer and "shall appear for the state in the trial and argument of all civil and criminal causes in the supreme

court in which the state is directly or indirectly interested." R.C. 109.02. In that role, he has an interest in defending the laws adopted by the General Assembly, including the sex-offender registration requirements that D.R. challenges in this case. The Attorney General also has an interest in supporting courts throughout the State as they apply those laws and process juvenile offenders in an effort to both protect the community and rehabilitate young offenders.

STATEMENT OF THE CASE AND FACTS

When he was sixteen, D.R. sexually assaulted his twelve-year-old friend. April 5, 2018 Tr. at 5–6; *see also In re: D.R.*, 1st Dist. No. C-190594, 2021-Ohio-1797 ¶2 ("App.Op."). The State charged him with two counts of rape. *See* April 5, 2018 Tr. at 2. The prosecutor dismissed one of the rape counts and reduced the other to gross sexual imposition. *Id.* D.R. admitted to the reduced charge. *Id.* at 3–5; *see also* App.Op.¶2. The juvenile court committed him to the Department of Youth Services until he turned twenty-one. It suspended that commitment, however, placing him on probation and ordering him to complete the Lighthouse Youth Services Sex Offender Program. App.Op.¶2.

Because D.R. was sixteen at the time he assaulted his friend, R.C. 2152.83(A) required the juvenile court to classify him as a juvenile sex-offender. The juvenile court had the discretion to impose an appropriate level of classification, however, *see id.*, and it classified him as a Tier I offender—the lowest and least restrictive tier, *see* App.Op.¶2.

By all accounts, D.R. behaved well while on supervision. He successfully completed the required sex-offender program and complied with the other terms of his probation. App.Op.¶3. At his completion-of-disposition hearing, the juvenile court terminated D.R.'s probation. *Id.* But it did not, and *could not*, reduce his sex-offender classification or terminate his associated registration obligations. *See id.* Because D.R. had already been classified as the lowest tier offender, his classification could not be further reduced. *See* R.C. 2152.84(B)(2). And the General Assembly has instructed that juvenile sex-offender classifications may not be terminated until at least three years after a juvenile completes his juvenile court disposition. R.C. 2152.85(B)(1).

D.R. objected to the magistrate's decision on the basis that it violated his due-process rights, both substantive and procedural. Aug. 28, 2019 Tr. at 12–15. Although the juvenile court overruled his objections, it noted that it had "never been a fan of the way the sex offender registration process works for juveniles," *id.* at 16–17, and invited D.R. to raise his due-process claims on appeal, *see* App.Op.¶3.

D.R. accepted the invitation. On appeal, he argued that, to the extent that R.C. 2152.84(A)(1) required the juvenile court to hold a hearing at the completion of his disposition *without* allowing the court to terminate his sex-offender classification, it violated the Constitution. More precisely, D.R. argued that this arrangement violated his due process rights (both procedural and substantive), constituted cruel and unusual punishment in violation of the Eighth Amendment and Article I, Section 9 of the Ohio Con-

stitution, and violated the Fourteenth Amendment's Equal Protection Clause and Article I, Section 2 of the Ohio Constitution. *See* D.R.App.Br.ii.

The First District held that the Fourteenth Amendment and Article I, Section 16 of the Ohio Constitution prohibit holding a hearing under R.C. 2152.84 where there is no prospect of substantive relief. In other words, it held the statute unconstitutional in its application to juveniles, like D.R., who have been classified as Tier I sex offenders. Juvenile courts, it held, must have the discretion to modify or terminate a juvenile's sex-offender classification, including the classification of those initially classified as Tier I offenders. App.Op.¶12. The First District therefore reversed the juvenile court's order continuing D.R.'s Tier I sex-offender classification. And it remanded for a new completion-of-disposition hearing, at which the juvenile court would have the discretion to maintain D.R.'s classification or terminate it. App.Op.¶¶1, 17. Because it had granted D.R. the relief that he sought, the First District did not address any of his remaining claims, including his claim that R.C. 2152.84 violated his right to substantive due process, or his claim that continuing his sex-offender classification constituted cruel and unusual punishment. App.Op.¶16.

The State appealed, and the Court agreed to hear the case. *In re D.R.*, 164 Ohio St. 3d 1460, 2021-Ohio-3594.

ARGUMENT

Amicus Curiae Ohio Attorney General's Proposition of Law:

> *Juvenile sex offenders do not have a right to have their sex-offender classification terminated immediately upon the completion of their juvenile disposition.*

Requiring juveniles to continue to register as sex-offenders even after they become adults does not violate either the Fourteenth Amendment's Due Process Clause or the equivalent protections provided by Article I, Section 16 of the Ohio Constitution. *D.S.*, 146 Ohio St. 3d 182, 2016-Ohio-1027, syl.¶3. Despite the Court's controlling precedent on this point, the First District nevertheless held that the General Assembly may not require a *subset* of juvenile sex-offenders—namely, those who were at least sixteen years-old when they committed their offenses and who were initially classified as Tier I offenders—to continue to register. Doing so, it concluded, violates the procedural due process protections provided by the United States and Ohio constitutions. App.Op.¶¶1, 16. The First District erred, and the Court should reverse.

A. Juveniles do not have a procedural due process right to have their sex-offender classification terminated immediately upon the completion of their juvenile-court disposition.

The Due Process Clause of the Fourteenth Amendment to the United State Consituation declares that no State shall "deprive any person of life, liberty, or property, without due process of law." Article I, Section 16 of the Ohio Constitution, for its part, does not mention due process; it guarantees that "[a]ll courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have rem-

edy by due course of law, and shall have justice administered without denial or delay." Despite the differing language, this Court has consistently interpreted Article I, Section 16 as guaranteeing due process to the same extent as the Fourteenth Amendment. *See Stolz v. J&B Steel Erectors*, 155 Ohio St. 3d 567, 2018-Ohio-5088 ¶12. And although both constitutional provisions have been interpreted as protecting substantive as well as procedural rights, *see Ferguson v. State*, 151 Ohio St. 3d 265, 2017-Ohio-7844 ¶42, the First District concluded only that R.C. 2152.84 violates D.R.'s procedural due process rights, App.Op.¶16. That is where this brief will begin.

Procedural due process is not the source of any substantive rights. It is not, in other words, "an end in itself." *Olim v. Wakinekona*, 461 U.S. 238, 250 (1983); *see also Town of Castle Rock v. Gonzales*, 545 U.S. 748, 764 (2005). It is instead a safeguard in service of other, preexisting rights. *See Bd. of Regents v. Roth*, 408 U.S. 564, 576 (1972). The threshold question for purposes of procedural due process, therefore, is whether there is an existing right (sometimes referred to as a liberty or property interest) that is entitled to procedural protections. *See District Attorney's Office for Third Judicial Dist. v. Osborne*, 557 U.S. 52, 67 (2009). If there is not, then there can be no procedural due process violation. *Bd. of Regents*, 408 U.S. at 579.

Once a party asserting a procedural due process violation has successfully identified a right, the next question is whether the State is providing adequate processes to protect that right. When a party challenges the structure of a State's justice system,

courts apply what has come to be known as the "fundamental fairness" test. *Medina v. California*, 505 U.S. 437, 443–44 (1992); *see also Martin v. Ohio*, 480 U.S. 228, 232 (1987). The name of that test is something of a misnomer; it does not measure "personal and private notions of fairness." *Dowling v. United States*, 493 U.S. 342, 353 (1990) (quotation omitted). Instead, it mandates only those procedures that are essential to the "fundamental conceptions of justice which lie at the base of our civil and political institutions." *Id.* (quotation omitted). Courts will not invalidate a legislature's decisions about how to structure a State's justice system unless the chosen processes "offend[] some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental." *Patterson v. New York*, 432 U.S. 197, 202 (1977) (quotation omitted). The fundamental fairness test is thus "very narrow[]", *Dowling*, 493 U.S. at 352, and requires "substantial deference to legislative judgements," *Medina*, 505 U.S. at 446. In that respect, it is "far less intrusive than" the test announced in *Mathews v. Eldridge*, 434 U.S. 219 (1976), which governs the processes available in civil proceedings. *Medina*, 505 U.S. at 446.

There is no need to ask in this case whether R.C. 2152.84(B)(2) offends a deeply-rooted principle of justice. That is because D.R.'s procedural due process claim should have failed at the first step: neither he nor the First District identified an existing protected right. Juvenile sex-offenders do not have a statutory right or a constitutional right to have their classifications terminated immediately upon the completion of their

juvenile-court disposition. Nor do they have a right to have a juvenile court make every decision about their registration obligations. The General Assembly may therefore require juveniles to register as sex offenders, even after they become adults, and it may require juvenile courts to wait at least three years before terminating a sex-offender classification. Because D.R. had no *substantive* right to an adjustment of his sex-offender status, the absence of any statutory mechanism for providing any such adjustment could not have violated procedural due process principles.

1. As a statutory matter, the process for classifying delinquent juvenile as sex-offenders depends on their age at the time they committed their offenses. Juveniles who were under the age of fourteen do not receive a sex-offender classification. *See* R.C. 2152.83(A)(1)(b) & (B)(1)(b); R.C. 2152.82(A)(2). Juveniles who were either fourteen or fifteen years-old when they committed their offenses may be classified as a Tier I, II, or III sex offender, but juvenile courts are not required to impose a sex-offender classification. R.C. 2152.83(B)(1) & (B)(2)(a) (juvenile courts "may conduct" a hearing for the purpose of classifying a juvenile as a "juvenile offender registrant" and may decline to so classify the juvenile). Older juveniles—those who were at least sixteen years-old at the time of their offense—*must* receive a sex-offender classification, R.C. 2152.83(A)(1) (juvenile court's "shall issue" a classification order), as must younger juveniles who were previously adjudicated delinquent for committing a sexually oriented offense, R.C. 2152.82(A)(3). But even when juvenile courts are required by statute to impose a

sex-offender classification, they retain the discretion to determine which of the three tiers to apply. R.C. 2152.82(B); R.C. 2152.83(A)(2); R.C. 2152.831(A).

Juvenile courts' ability to modify or terminate a sex-offender classification once a juvenile sex-offender has completed his or her juvenile-court disposition also depends in part on the juvenile's age at the time of the offense. If a juvenile was fourteen or fifteen years-old at the time of the offense, then a juvenile court may terminate the sex-offender classification, *see* R.C. 2152.84(A)(2)(b), or may reduce the classification to a lower tier, *see* R.C. 2152.84(A)(2)(c). Older juveniles may also have their classification reduced. *See id.* But because Tier I offenders are already classified as the lowest tier offender, reduction for them is not an option. *See* R.C. 2152.84(A)(2)(c), (B)(2). And unlike younger offenders, the General Assembly has instructed that juvenile courts *may not* terminate older juveniles' sex-offender classifications until at least three years following the completion of their juvenile-court disposition. R.C. 2152.85(B)(1). To that end, the General Assembly has indicated the completion of a juvenile-court disposition does not affect a juvenile court's jurisdiction to review a juvenile's sex-offender classification. R.C. 2152.83(E); *see also In re: R.B.*, 162 Ohio St. 3d 281, 2020-Ohio-5476 ¶¶30, 34.

This statutory scheme makes clear that, at least for certain juveniles, there is no *statutory* right to have a juvenile sex-offender classification terminated immediately upon the completion of a juvenile disposition. Juvenile courts have the discretion to terminate or reduce these classifications, but they must wait to exercise that discretion un-

til three years after the completion of a disposition. Finally, lest there be any doubt about the absence of a statutory right, the very existence of this case proves that there is not; if D.R. had such a right, he would not have needed to bring a *procedural* challenge, because he would have been entitled to an adjustment as a *substantive* matter.

2. Juveniles also have no constitutional right to have their sex-offender classification terminated upon the completion of their juvenile-court disposition. This Court made that clear in *D.S.* There, it held that continuing a juvenile's sex-offender classification, and associated registration requirement, "for a time period beyond the offender's attainment of age 18 or 21 does not violate the juvenile offender's due-process rights or the prohibitions against double jeopardy in the United States and Ohio Constitutions." *D.S.*, 146 Ohio St. 3d 182 ¶1; *see also Raheem L.*, 2013-Ohio-2423 ¶10 (Fischer, J.).

The Court has also held that juveniles do not have a substantive constitutional right to *any* specific juvenile-court proceeding. The Court long ago held that "the nature of a juvenile proceeding … 'is purely statutory.'" *In re Agler*, 19 Ohio St. 2d 70, 72 (1969) (quoting *Prescott v. State*, 19 Ohio St. 184, 188 (1869)). And it more recently held that "[b]ecause Ohio's Due Course of Law Clause and the federal Due Process Clause both predate the creation of juvenile courts in Ohio and throughout the United States, these provisions cannot have created a substantive right to a specific juvenile-court proceeding." *State v. Aalim*, 150 Ohio St. 3d 489, 2017-Ohio-2956 ¶17; *but see State v. Bunch*,

163 Ohio St. 3d 1501, 2021-Ohio-2307 (granting review of a Proposition of Law challenging *Aalim*).

The Court's precedent is consistent with the decision of every court to have considered the question; courts universally agree that juveniles who commit crimes do not have a constitutional right to special criminal procedures. *See Stokes v. Fair*, 581 F.2d 287, 289 (1st Cir. 1978) ("[T]here is no constitutional right to any preferred treatment as a juvenile offender[.]"); *State v. Orozco*, 483 P.3d 331, 337–39 (Idaho 2021); *Commonwealth v. Concepcion*, 487 Mass. 77, 84–86 (2021); *State v. Watkins*, 191 Wn.2d 530, 543–46 (2018); *State v. Rudy B*, 149 N.M. 22, 36 (2010); *State v. Angel C.*, 245 Conn. 93, 124 (1998); *State v. Behl*, 564 N.W.2d 560, 566–68 (Minn. 1997); *People v. Hana*, 443 Mich. 202, 209–14, 221 (1993); *W.M.F. v. State*, 723 P.2d 1298, 1300 (Alaska 1986); *State v. Cain*, 381 So. 2d 1361, 1363 (Fla. 1980); *Woodard v. Wainwright*, 556 F.2d 781, 785 (5th Cir. 1977); *People v. Jiles*, 43 Ill. 2d 145, 148–49 (1969).

In fact, if D.R. had committed his offenses in many other states, the juvenile court may not have ever gotten involved—he could have been charged directly in adult court. The District of Columbia, for example, excludes from the definition of "child" those juveniles who are at least sixteen years-old and who commit first-degree sexual abuse. D.C. Code §16-2301(3)(A). And in Florida, prosecutors may bypass the juvenile courts entirely by filing charges directly in adult court against juveniles who are at least sixteen years old whenever a prosecutor believes that "the public interest requires that

adult sanctions be considered or imposed." Fla. Stat. §985.557(1)(b). (Florida prosecutors may also file charges against fourteen and fifteen-year-olds in adult court if the juveniles committed a variety of offenses, including "[a]ny lewd or lascivious offense … upon or in the presence of a person less than 16 years of age." Fla. Stat. §985.557(1)(a).) If D.R. could have been charged, tried, and punished as an adult in other States without violating the Due Process Clause, then there can be no constitutional problem in Ohio with requiring him to wait three years before asking the juvenile court to terminate his sex-offender classification.

B. The First District misapplied the requirements of procedural due process and misunderstood this Court's precedent.

The First District made clear that it was invalidating R.C. 2152.84 as a matter of procedural due process. *See* App.Op.¶¶1, 16. But, as discussed above, procedural due process is not an end in itself; a court may require additional procedures under the guise of procedural due process only when those procedures are necessary to protect an already existing right. *See Gonzales*, 545 U.S. at 756. The First District ignored this requirement; it never specified what right its decision was intended to protect.

The First District's failure to identify a protected right makes it hard to determine what, specifically, it believed is unconstitutional about R.C. 2152.84. There are two possibilities. *First*, the First District may have concluded that it violated D.R.'s due process rights by requiring him to participate in a hearing that afforded no prospect of *immediate* relief. *Second*, it may have concluded that juvenile courts must have sentencing dis-

cretion and that R.C. 2152.84 impermissibly intrudes on that discretion. Neither belief is correct, and neither can support the First District's conclusion that R.C. 2152.84 violates due process.

1. The First District criticized the completion-of-disposition hearing required by R.C. 2152.84 as "meaningless because [a] juvenile court has no discretion to declassify [a juvenile sex offender]." App.Op.¶8; *see also* ¶12 (noting that "the completion-of-disposition hearing was meaningless"). It is therefore possible to read its decision as finding fault with the requirement that juvenile courts hold completion-of-disposition hearings for offenders, like D.R., who were initially classified as Tier I offenders and who therefore are ineligible for a reduction in their sex-offender classification.

If that is what the First District held, its holding lacks any basis in law. The First District did not cite a single case that stands for the proposition that simply holding a hearing is a due process violation. Usually the claim is the opposite—parties typically argue that they were improperly *deprived* of a hearing. *See, e.g.*, *In re Application of 6011 Greenwich Windpark, L.L.C.*, 157 Ohio St. 3d 235, 2019-Ohio-2406 ¶37. Nor is there a right to immediate relief following every hearing. Courts regularly hold status conferences and other hearings, the purpose of which is not to award any sort of relief, but to simply obtain an update on the current status of a case. That points to another reason why the First District erred: D.R.'s R.C. 2152.84(B) hearing was *not* meaningless. Even if the juvenile court was barred by statute from awarding immediate relief, the hearing

provided D.R. an opportunity to update the juvenile court on his progress and to build a record that would support a future request to have his sex-offender classification terminated under R.C. 2152.85.

Finally, even if the First District were correct that there is a right not to be subject to a hearing unless there is the prospect of immediate relief, the remedy for such a violation would be the elimination of the offending requirement. *See City of Cleveland v. State*, 138 Ohio St. 3d 232, 2014-Ohio-86 ¶18 ("When this court holds that a statute is unconstitutional, severing the provision that causes it to be unconstitutional may be appropriate."). In this case, that would be the requirement that a juvenile court hold a completion-of-disposition hearing for juveniles classified as Tier I sex offenders, not the statutory prohibition on terminating that classification.

2. The more likely explanation for the First District's decision is that it determined that R.C. 2152.84 impermissibly infringes on juvenile court discretion. That explanation is consistent with the First District's interpretation of this Court's decision in *In re: C.P.*, 131 Ohio St. 3d 513, 2012-Ohio-1446, which it read as requiring that juvenile judges be given the discretion to determine "the appropriateness" of any penalty that continues into adulthood. *See* App.Op.¶13 (quoting *C.P.*, 131 Ohio St. 3d 513 ¶78).

If that is what the First District meant, then it misinterpreted *C.P.* The Court in *C.P.* was confronted with a narrow question: Is an automatic, lifelong, registration and notification requirement unconstitutional when applied to juvenile sex offenders? It

held that it was, and that such a requirement violated the Eighth Amendment, the Fourteenth Amendment's Due Process Clause, and their Ohio Constitution equivalents. *C.P.*, 131 Ohio St. 3d 513, syl. The Court's decision was limited to that question, however, and it did not announce a rule about the scope of juvenile court authority or juvenile sentencing more broadly.

The First District took portions of the Court's decision in *C.P.* out of context, claiming the decision stood for the proposition that juvenile-court judges be given unfettered discretion over every aspect of sentencing. In reaching that conclusion, the First District relied on the Court's statement that juvenile court discretion plays an "important role … in the disposition of juvenile offenders." *See* App.Op.¶14. (quoting *C.P.*, 131 Ohio St. 3d 513 ¶85). A key consideration in *C.P.*, however, was the "automatic longterm punishment" that juveniles faced under R.C. 2152.86, and the fact that the statute at issue required "the imposition of an adult penalty for juvenile acts without input from a juvenile judge." *C.P.*, 131 Ohio St. 3d 513 ¶¶77–78. It was the *combination* of a mandatory registration requirement, together with the length of that requirement, and the fact that it continued into adulthood, that provided the basis for the Court's decision in *C.P.*

Those factors, and that combination, are not present here. The brief registration requirement R.C. 2152.83 imposed on D.R. is significantly different from the lifetime registration requirement at issue in *C.P*. And D.R. was required to continue to register,

at least briefly, not because he received an adult sentence, but because R.C. 2152.85(B)(1) requires juvenile sex offenders to continue to register for at least three years after the completion of their juvenile-court disposition. D.R. had already turned eighteen by the time he completed his.

While the First District read this Court's decision in *C.P.* too broadly, it read the Court's later decision in *D.S.* too narrowly. In *D.S.*, the Court held that requiring a juvenile sex offender to continue to register after reaching age eighteen or twenty-one does not violate a juvenile's due process rights. 146 Ohio St. 3d 182, syl.¶3. That decision, which came only four years after the Court decided *C.P.*, involved a constitutional challenge to at least one of the same statutes at issue here: R.C. 2152.83.

The First District justified its refusal to apply *D.S.* on the basis that, at the time D.S. committed his offenses, he was younger than D.R. was at the time he committed his. The age difference mattered, the First District held, because the fact that D.S. was not yet sixteen years old meant that the juvenile court had the discretion at the initial-classification stage not to impose a sex-offender classification at all and also had the discretion to terminate the classification at the R.C. 2152.84 post-disposition hearing. *See* App.Op.¶¶11–12 (citing *D.S.*, 146 Ohio St. 3d 182 ¶¶35–37).

While the First District was right that there are factual differences between this case and *D.S.*, it erred in deeming those differences legally relevant. The Court's precedent makes clear that they are not. The Court has applied the same rule it announced in

D.S. to juveniles like D.R., who committed their offenses when they were at least sixteen years old. Most notably, it affirmed a Seventh District decision that had held that the General Assembly may require juveniles to register as sex offenders even into adulthood. *In re: M.R.*, 147 Ohio St. 3d 216, 2016-Ohio-5451 (affirming *In re: M.R.*, 2014-Ohio-2623 (7th Dist.)). The Seventh District in *M.R.* rejected a challenge to R.C. 2152.83(A) that, like D.R.'s challenge here, was based on *C.P*. It held that requiring juveniles to continue to register as sex offenders after they become adults does not constitute cruel and unusual punishment or violate due process. *M.R.*, 2014-Ohio-2623 ¶68. And it noted that, although this Court "made some strong statements" in *C.P.*, those statements were limited to the specific type of registration obligations at issue in that case, specifically "automatic lifetime tier III classification with community notification." *M.R.*, 2014-Ohio-2623 ¶63. *C.P.*, it concluded, did not require it to invalidate the more lenient and flexible registration requirements imposed pursuant to R.C. 2152.83(A). *Id.* at ¶¶64–65. The Court appears to have agreed with the Seventh District's analysis, as it affirmed the Seventh District "as to the holdings regarding due process." *M.R.*, 147 Ohio St. 3d 216 ¶1.

Even if the First District were right, however, and even if juvenile courts must be given the discretion to decide how long a juvenile must register as a sex offender, it was wrong to conclude that juvenile courts have been improperly deprived of that discretion here. Under R.C. 2152.84, juvenile courts *do* have significant discretion about when

to terminate a juvenile sex offender's registration requirement. Although the statute establishes a default rule that the registration requirement must "remain in effect for the period of time specified in [R.C.] 2950.07," it gives juvenile courts the discretion to terminate that requirement early. RC. 2152.84(D). It simply requires them to wait at least three years before exercising that discretion. *Id.*; R.C. 2152.85(B). A brief waiting period is a far cry from the complete lack of discretion that the Court found problematic in *C.P.* *See C.P.*, 131 Ohio St. 3d 513 ¶77 (discussing the "automatic imposition of a lifetime punishment—with no chance of reconsideration for 25 years"). The First District erred by concluding otherwise.

CONCLUSION

For the foregoing reasons, the Court should reverse the First District's decision.

Respectfully submitted,

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I hereby certify that a copy of the foregoing Merit Brief of *Amicus Curiae* Ohio Attorney General Dave Yost in Support of Appellant State of Ohio was served this 1st day of December, 2021, by e-mail on the following:

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