SLIP OPINION NO. 2023-OHIO-3027

THE STATE OF OHIO, APPELLANT, *v.* SCHILLING, APPELLEE.

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Sex-offender registration and reporting—A person's classification as a sexually oriented offender under Ohio's Megan's Law occurs by operation of law— State v. Henderson *does not apply to a trial court's error in determining a person's sex-offender classification—A person convicted of a sexually oriented offense in Ohio is entitled to relief from his or her registration and reporting obligations under Megan's Law after reporting period has ended, even if person was living outside Ohio and reported in another state during registration and reporting period—Court of appeals' judgment affirmed in part and reversed in part.*

(No. 2022-0782—Submitted April 5, 2023—Decided August 31, 2023.)

APPEAL from the Court of Appeals for Hamilton County,

No. C-210363, 2022-Ohio-1773.

STEWART, J.

{¶ 1} In this appeal from a judgment of the First District Court of Appeals, appellant, the state of Ohio, asks us to answer two questions regarding Ohio's sex-offender registration and reporting laws. The first question is whether our recent decision in *State v. Henderson*, 161 Ohio St.3d 285, 2020-Ohio-4784, 162 N.E.3d 776—in which we held that when a court has jurisdiction to act, any errors in the court's judgment are voidable and are subject to res judicata if they are not timely appealed, *id.* at ¶ 26-27—applies to a trial court's erroneous classification of a defendant as a Tier I sex offender subject to the registration and reporting requirements of Ohio's Adam Walsh Act ("AWA"), 2007 Am.Sub.S.B. No. 10, when the date on which the defendant committed the offense rendered the defendant subject to the registration and reporting requirements of Ohio's Megan's Law, Am.Sub.H.B. No. 180 ("H.B. 180"), 146 Ohio Laws, Part II, 2560, and Am.Sub.S.B. No. 5 ("S.B. 5"), 150 Ohio Laws, Part IV, 6558, Ohio's sex-offender registration and reporting scheme that predated the AWA. The second question is whether a person's obligation to register and report as a sex offender in Ohio for a specific duration is tolled when the person was convicted of the sex offense in Ohio but resides in another state and reports as a sex offender regarding the offense in the other state.

{¶ 2} The answer to the first question is no. A person's obligation to register and report as a sex offender under either of Ohio's sex-offender registration and reporting schemes does not arise by judicial determination. It arises by operation of law based on the sex-offense conviction itself. Accordingly, *Henderson* does not apply here, because our holding in that case applies only with respect to errors in a trial court's exercise of its judgment. The answer to the second question is also no. Ohio's sex-offender registration and reporting schemes contain no provision that tolls the period during which a person convicted of a sexually oriented offense in Ohio must register and report when the person resides in another

state and registers and reports in the other state. Accordingly, we affirm the decision of the First District in part, reverse it in part, and hold that appellee, Michael Schilling, has completed his Ohio sex-offender registration and reporting obligations.

I. Background

{¶ 3} Sex-offender-registration statutes have existed in Ohio since 1963. *See* former R.C. Chapter 2950, 130 Ohio Laws 669. The first of several significant changes to those statutes occurred in 1996, when the General Assembly enacted Megan's Law through H.B. 180, which took effect on January 1, 1997. *See* 146 Ohio Laws, Part II, at 2668; *see also State v. Williams*, 88 Ohio St.3d 513, 516, 728 N.E.2d 342 (2000) ("H.B. 180 created more stringent sex offender classification, registration, and notification provisions within R.C. Chapter 2950"). Megan's Law was subsequently amended by the General Assembly in 2003 through S.B. 5.

{¶ 4} Megan's Law established a comprehensive scheme whereby sex offenders are classified—based on their status as a first-time or a repeat offender and their likelihood of reoffending—as either a sexually oriented offender, a habitual sex offender, or a sexual predator. *See State v. Williams*, 129 Ohio St.3d 344, 2011-Ohio-3374, 952 N.E.2d 1108, ¶ 29-30 (O'Donnell, J., dissenting). Although some of the registration and reporting requirements apply under all the Megan's Law classification categories, there are additional requirements under Megan's law for individuals classified as habitual offenders or sexual predators, and each classification category has a different duration of reporting, i.e., 10 years for sexually oriented offenders, 20 years for habitual offenders, and lifetime reporting for sexual predators. *See* former R.C. 2950.04(A), 146 Ohio Laws, Part II, at 2609; former R.C. 2950.06(B), 146 Ohio Laws, Part II, at 2613; former R.C. 2950.07(B), 146 Ohio Laws, Part II, at 2616-2617; and former R.C. 2950.09(A) and (E), 146 Ohio Laws, Part II, at 2618, 2623-2624.

{¶ 5} Both the initial version of Megan's Law in 1997 and the 2003 S.B. 5 version of it contained provisions expressly stating that the law was to be applied retroactively to offenders who committed their qualifying sex offenses prior to its effective date. *See* former R.C. 2950.04(A), 146 Ohio Laws, Part II, at 2609-2610; *see also* former R.C. 2950.04(A), 150 Ohio Laws, Part IV, at 6657-6661. This court upheld the General Assembly's decision to apply the initial enactment of Megan's Law in 1997 retroactively to offenses committed prior to the law's effective date, after determining that the law was remedial rather than punitive and therefore did not violate state and federal constitutional protections against retroactive laws. *See State v. Cook*, 83 Ohio St.3d 404, 412-427, 700 N.E.2d 570 (1998), *superseded by statute as stated in Williams* at ¶ 16. We reached the same conclusion regarding the 2003 S.B. 5 amendments to the law. *See State v. Ferguson*, 120 Ohio St.3d 7, 2008-Ohio-4824, 896 N.E.2d 110, ¶ 13-43, *superseded by statute as stated in Williams* at ¶ 16.

{¶ 6} In 2007, the General Assembly passed the AWA. *See generally* 2007 Am.Sub.S.B. No. 10. The AWA replaced Megan's Law with a system under which "sexually oriented offenders" are classified as Tier I, Tier II, or Tier III sex offenders based primarily on their offense of conviction. *See* R.C. 2950.01(E), (F), and (G). Like it did with earlier laws governing the registration and reporting requirements for people convicted of sex offenses, the General Assembly expressly made the AWA retroactive regarding offenses committed prior to its effective date of January 1, 2008, *Williams* at ¶ 8. However, when the retroactive application of the law was challenged, we declared the law's retroactivity provisions unconstitutional. *See id.* at ¶ 22. In *Williams*, we concluded that certain changes to Ohio's sex-offender classification and reporting laws instituted by the AWA rendered the scheme "so punitive that its retroactive application is unconstitutional." *Id.* at ¶ 21.

{¶ 7} Our decision in *Williams* had the effect of creating "separate statutory schemes governing sex offenders depending on when they committed their underlying offense." *State v. Howard*, 134 Ohio St.3d 467, 2012-Ohio-5738, 983 N.E.2d 341, ¶ 17. The AWA applies to sex offenses committed on or after January 1, 2008; Megan's Law applies to sex offenses committed prior to January 1, 2008, even if the defendant was convicted after the AWA's January 1, 2008 effective date. *Id.* We now turn to the facts of this case.

II. Facts and Procedural History

{¶ 8} On June 11, 2008, Schilling, then a Kentucky resident, was convicted in the Hamilton County Municipal Court of attempted voyeurism, a second-degree misdemeanor that occurred on September 25, 2007. The trial court sentenced him to 90 days in jail, with 80 days suspended; a fine; and three years of community-control supervision. The court also ordered Schilling to pay costs.

{¶ 9} Attempted voyeurism is a sexually oriented offense in Ohio under both the AWA and Megan's Law. *See* R.C. 2950.01(A) and (E)(1)(a) and (h); R.C. 2907.08; *see also* former R.C. 2950.01(D), 150 Ohio Laws, Part IV, at 6634-6635. On the same day that it issued Schilling's sentencing entry, the municipal court signed a separate document titled "Explanation of Duties to Register as a Sex Offender or Child Victim Offender Duties commencing on or after January 1, 2008." This document stated that Schilling had been convicted of a sexually oriented offense as defined by R.C. 2950.01 and was a Tier I sex offender under the AWA. The document explained Schilling's registration and reporting obligations as a Tier I sex offender, which, among other things, required him to initially register any residential address or place of employment with the applicable county sheriff's office, followed by annual, in-person verification of such information for 15 years. Schilling signed the document, and it was entered on the court's docket along with a journal entry dated June 11, 2008, stating, "[Defendant] tier I Sex Offender Informed of Duties to Register."

{¶ 10} Notably, both the document informing Schilling of his registration and reporting duties and the court's entry noting that he had been informed of the duties incorrectly stated that Schilling's conviction subjected him to Tier I registration and reporting under the AWA. Because Schilling committed the offense of attempted voyeurism on September 25, 2007, Megan's Law, not the AWA, applied to his conviction for that offense. *See Williams*, 129 Ohio St.3d 344, 2011-Ohio-3374, 952 N.E.2d 1108, at ¶ 22-23; *see also In re Von*, 146 Ohio St.3d 448, 2016-Ohio-3020, 57 N.E.3d 1158, ¶ 21. However, neither the state nor Schilling appealed the trial court's erroneous classification of Schilling.[1]

{¶ 11} In his briefing in the trial court on the issue, Schilling argued that he initially registered as a sex offender with the Hamilton County Sheriff's Office on the date of his sentencing, June 11, 2008. He further argued that he was "adjudicated an out of state resident on June 13, 2008, per the Sex Offender Office." The record indicates that he then returned to Kentucky, where he registered as a sex offender with the Kentucky State Police.

{¶ 12} On September 10, 2019, more than 11 years after his conviction in this case, Schilling filed a motion in the Hamilton County Court of Common Pleas seeking early termination of his sex-offender registration and reporting obligations under the AWA. Schilling filed the motion pursuant to R.C. 2950.15, which sets forth the process for Tier I offenders to seek discretionary early termination of their 15-year reporting obligation after 10 years of compliance with the law, if certain conditions are met. In his motion, Schilling explained that he was convicted in Hamilton County of a Tier I sex offense, that he had successfully completed his sentence, and that it had been at least ten years since the conviction. He argued that

1. Our decision in *Williams*—holding that the retroactive application of the AWA is unconstitutional—was issued approximately three years after Schilling's conviction in this case. It is therefore understandable that the trial court labeled Schilling a Tier I sex offender subject to the registration and reporting duties of the AWA and that no appeal was taken from that determination.

he was eligible for early termination of his registration and reporting obligations under the statute and asked the trial court to exercise its discretion and grant him early termination.

{¶ 13} Opposing the motion, the state argued that based on the date of the attempted-voyeurism offense, Megan's Law, not the AWA, applied, because the AWA could not constitutionally be applied retroactively to offenses committed prior to January 1, 2008. According to the state, Schilling was a sexually oriented offender subject to the S.B. 5 version of Megan's Law and, as such, he was not eligible for early termination under R.C. 2950.15, which applies only to AWA offenders. In response, Schilling maintained that he was in fact classified as a Tier I offender by the trial court at sentencing, regardless of whether that classification had been erroneous, and he further argued that because the state never directly appealed the classification, res judicata prevented the state from collaterally attacking it more than 11 years later.

{¶ 14} On January 14, 2020, the trial court held a hearing on Schilling's motion to terminate his sex-offender-registration status. The state maintained that Schilling was a sexually oriented offender under Megan's Law, which subjected him to a 10-year reporting obligation; that Schilling could not seek early termination of his reporting requirements under R.C. 2950.15, because that statute applies only to offenders subject to the AWA; and that the more than 11 years Schilling spent reporting in Kentucky did not count toward his obligation to report in Ohio for 10 years. The state asserted that no Ohio law grants credit for out-of-state reporting for an Ohio sex-offense conviction. And it argued that the reporting-credit provision in R.C. 2950.07(E) does not apply to Schilling's situation, because it permits credit in Ohio only for out-of-state reporting for out-of-state convictions when the offender moves to Ohio.

{¶ 15} Following discussion between the court and the parties, the trial court agreed with the state's position that Schilling was a sexually oriented offender under

Megan's Law. Believing that it did not have jurisdiction to address the credit-for-out-of-state-reporting issue, the court explained that it would issue a judgment declaring Schilling a sexually oriented offender under Megan's Law and that the parties could "do with that what [they] choose." On January 15, 2020, the court issued a judgment entry stating that Schilling was a sexually oriented offender under Megan's Law and that he had been erroneously classified as a Tier I sex offender under the AWA at his June 11, 2008, sentencing.

{¶ 16} On March 3, 2021, Schilling filed in the trial court an amended motion to terminate his registration duties after unsuccessfully applying with the Hamilton County Sheriff's Office for credit toward his ten-year reporting obligation under Megan's Law for the period he spent reporting in Kentucky. As it did with Schilling's first motion to terminate, the state opposed the request.

{¶ 17} The state noted that Schilling had only recently moved to Ohio and that prior to this move, Schilling had been a Kentucky resident, registering and reporting as a sex offender with the Kentucky State Police. The state argued that the years during which Schilling reported in Kentucky did not count toward his ten-year obligation to register and report under Megan's Law in Ohio, because, according to the state, R.C. 2950.07(E) permits credit only for out-of-state reporting for out-of-state convictions, not Ohio convictions. The state maintained that Schilling's ten-year obligation to report in Ohio did not start to run until he moved to Ohio in December 2020 and registered here.

{¶ 18} The trial court held a hearing on Schilling's amended motion to terminate and thereafter denied the motion. Schilling appealed, and the First District reversed the trial court's judgment.

{¶ 19} The First District held that Schilling had been classified as a Tier I sex offender under the AWA per the trial court's sentencing judgment in 2008 and that pursuant to this court's decision in *Henderson*, 161 Ohio St.3d 285, 2020-Ohio-4784, 162 N.E.3d 776, that judgment was final and could not be revisited by the trial

court, because neither party had appealed the judgment. 2022-Ohio-1773, 189 N.E.3d 405, ¶ 20-28. The court of appeals determined that as a Tier I offender under the AWA, Schilling was entitled to use R.C. 2950.15 to seek discretionary early termination of his 15-year reporting requirement and that he was entitled to credit in Ohio for his out-of-state reporting. 2022-Ohio-1773 at ¶ 26-28. Regarding the out-of-state-credit issue, the appellate court held that no Ohio law tolled the registration period for offenders convicted in Ohio who reported out of state and that R.C. 2950.07(E) did not preclude credit for out-of-state reporting for Ohio convictions. 2022-Ohio-1773 at ¶ 26.

{¶ 20} The state appealed to this court, and we accepted the following propositions of law for review:

> 1. Does this Court's holding in *State v. Henderson*, 161 Ohio St.3d 285, 2020-Ohio-4784, 162 N.E.3d 776 now supersede this Court's holding in *State v. Williams*, 129 Ohio St.3d 344, 2011-Ohio-3374, 952 N.E.2d 1108 where a convicted sex offender, whose offense occurred prior to the 01/01/2008 effective date of S.B. 10, and are they now subject to the sex offender registration requirements of S.B. 10 if a S.B. 10 Tier classification is entered in the offender's sentencing entry.
>
> 2. A plain reading of R.C. 2950.07(E) precludes any Ohio Sheriff from granting sex offender registration time credit toward their duty to register accrued in any other jurisdiction for a registered sex offender convicted in any Ohio court.[2]

2. These are the propositions of law that were accepted by this court from the state's memorandum in support of jurisdiction, as opposed to the reworded propositions of law set forth in the state's merit brief.

See 167 Ohio St.3d 1511, 2022-Ohio-3135, 194 N.E.3d 386.

III. Analysis

A. Applicability of State v. Henderson

{¶ 21} On appeal to the First District, Schilling argued, citing our recent decision in *Henderson*, that the trial court could not correct the 2008 judgment classifying him as a Tier I sex offender under the AWA because it had jurisdiction to enter that judgment and the state never appealed the judgment. The court of appeals agreed with Schilling and remanded the matter to the trial court for further consideration of his request for early termination of his AWA obligations. 2022-Ohio-1773 at ¶ 27. On appeal to this court, the state argues that as a matter of law, Schilling's conviction rendered him a sexually oriented offender subject to a ten-year reporting obligation under Megan's Law, even though neither he nor the state appealed his Tier I classification. Schilling now agrees with the state on this point, and so do we.

{¶ 22} In *Henderson*, 161 Ohio St.3d 285, 2020-Ohio-4784, 162 N.E.3d 776, at ¶ 1, this court returned to its traditional understanding of void and voidable judgments. The traditional view is that "[a] judgment or sentence is void only if it is rendered by a court that lacks subject-matter jurisdiction over the case or personal jurisdiction over the defendant." *Id.* at ¶ 43. On the other hand, "[i]f the court has jurisdiction over the case and the person, any error in the court's exercise of that jurisdiction is voidable" as opposed to void. *Id*. at ¶ 34. "The failure to timely—at the earliest available opportunity—assert an error in a voidable judgment, even if that error is constitutional in nature, amounts to the forfeiture of any objection." *Id*. at ¶ 17, citing *Tari v. State*, 117 Ohio St. 481, 495, 159 N.E. 594 (1927).

{¶ 23} Our decision in *Henderson* does not apply to the trial court's erroneous classification of Schilling as a Tier I sex offender under the AWA instead of as a sexually oriented offender under Megan's Law. Neither Schilling's sentencing entry nor any other judgment entered by the trial court in this case

actually imposed, by judicial determination, the Tier I classification. The only such documents in the trial-court record that even mention Schilling's purported status as a Tier I sex offender are the document signed by Schilling and the trial-court judge that informed Schilling of his duty to register and report as a Tier I offender and the court's entry noting that Schilling had been informed of those duties. Neither of these is a trial-court judgment such that our holding in *Henderson* might apply to any error it may contain.

{¶ 24} That there is no court order or judgment in the record declaring that Schilling has been determined to be a Tier I sex offender under the AWA, but rather only an indication that he had received notice of his purported Tier I status and reporting requirements, is not surprising considering how Ohio's sex-offender registration and reporting law works. When Schilling was sentenced in June 2008, this court had yet to decide *Williams*, 129 Ohio St.3d 344, 2011-Ohio-3374, 952 N.E.2d 1108, so the trial court was operating under the assumption that the AWA applied retroactively to offenses committed prior to its effective date and thus applied to Schilling. The language of the AWA does not require a court to classify a defendant under one of its tiers. The classification happens automatically by operation of law, based on the offense of conviction, *see* R.C. 2950.01(E), (F), and (G). Under the AWA, the trial court's only responsibility with regard to the classification is to give notice to the defendant at sentencing of the registration and reporting obligations specific to the defendant's classification under the law. *See* R.C. 2950.03(A). The trial court's duty *to give notice* of what the classification requires under the AWA is not the same as having the duty or the discretion *to impose* the classification and its attendant registration and reporting obligations. The former requires no judgment to be rendered by the trial court while the latter does require a judgment.

{¶ 25} Likewise, classification as a sexually oriented offender under Megan's Law and the attendant registration and reporting obligations do not arise

from a trial court's judgment. As this court explained in *State v. Hayden*, 96 Ohio St.3d 211, 2002-Ohio-4169, 773 N.E.2d 502, ¶ 15, 18 ("*Hayden II*"), a person's classification as a sexually oriented offender under Megan's Law arises automatically from the person's conviction for a sexually oriented offense as defined by former R.C. 2950.01 and the person's past conduct not qualifying the person as a habitual sex offender or a sexual predator. In *Hayden II*, this court noted that under that law, " '[t]he trial court cannot "determine" anything.' " *Id*. at ¶ 16, quoting *State v. Hayden*, 2d Dist. Montgomery No. 18103, 2000 Ohio App. LEXIS 4315, *7 (Sept. 22, 2000) (Young, J., dissenting) ("*Hayden I*"). Rather, the court " 'merely engages in the ministerial act of rubber-stamping the registration requirement on the offender.' " *Id*., quoting *Hayden I* at *7.

{¶ 26} For these reasons, it is clear that Schilling is a sexually oriented offender under Megan's Law subject to a ten-year reporting obligation. Schilling committed the offense of attempted voyeurism on September 25, 2007, and the provisions of Megan's Law apply to anyone who committed a sexually oriented offense prior to January 1, 2008, the effective date of the AWA, *see In re Von*, 146 Ohio St.3d 448, 2016-Ohio-3020, 57 N.E.3d 1158, at ¶ 21; *State ex rel. Grant v. Collins*, 155 Ohio St.3d 242, 2018-Ohio-4281, 120 N.E.3d 804, ¶ 11-13. Pursuant to Megan's Law, Schilling's attempted-voyeurism offense under former R.C. 2907.08 and 2923.02 is a sexually oriented offense. *See* former R.C. 2950.01(D)(1)(e) and (g), Am.Sub.S.B. No. 260, 151 Ohio Laws, Part I, 1915, 1987-1989 (R.C. 2950.01(D)(1)(e) and (g), as they existed on September 25, 2007). A person's conviction for a sexually oriented offense under Megan's Law automatically classifies the person as a sexually oriented offender when the person does not qualify as a habitual sex offender or a sexual predator. *See Hayden II* at ¶ 18. Lastly, Megan's Law imposes a ten-year reporting requirement on sexually oriented offenders like Schilling. *See* former R.C. 2950.07(B)(3), 150 Ohio Laws, Part IV, at 6678-6683 (R.C. 2950.07(B)(3), as it existed on September 25, 2007).

B. Effect of Out-of-State Reporting

{¶ 27} The state argues that Schilling's duty to comply with the provisions of Megan's Law for ten years did not begin until he moved to Ohio and registered here in December 2020. The state further argues that Schilling is not entitled to credit for his reporting as a sex offender in Kentucky, because, according to the state, R.C. 2950.07(E) is the only statute that permits an Ohio county sheriff's department to give an offender credit for any period that the offender reported outside Ohio and that statute applies only to reporting for out-of-state convictions. Although we agree with the state that R.C. 2950.07(E), former or current, does not apply to Schilling, we disagree with the state's contention that the time Schilling spent reporting in Kentucky does not count toward his Ohio Megan's Law reporting obligation or that his ten-year obligation to comply with Megan's Law was tolled until he moved to Ohio in December 2020.

{¶ 28} The duties imposed under Megan's Law[3] are found in former R.C. 2950.04, 2950.041,[4] 2950.05, and 2950.06. Former R.C. 2950.04 imposes registration duties on sex offenders and details the registration and reporting process. Former R.C. 2950.04(A)(1) and (A)(2) impose a duty on a person convicted of a sexually oriented offense in Ohio to "register personally with the sheriff in the county within five days of the [person's] coming into [the] county in which the [person] resides or temporarily is domiciled for more than five days."

3. Since we find that Schilling's conviction rendered him subject to the provisions of Megan's Law as they existed at the time that he committed his offense on September 25, 2007, unless explicitly stated otherwise, any reference to those provisions in the remainder of this opinion is to the former statute or statutes as they existed at that time. *See* Am.Sub.H.B. No. 473, 150 Ohio Laws, Part IV, 5707, 5770, 5777, 5783 (the versions of R.C. 2950.04, 2950.041, and 2950.05 in effect on September 25, 2007); S.B. 5, 150 Ohio Laws, Part IV, at 6673 (the version of R.C. 2950.06 in effect on September 25, 2007).

4. Former R.C. 2950.041 applies exclusively to people convicted of child-victim-oriented offenses and outlines the registration and reporting requirements for such offenders. Since Schilling was not convicted of a child-victim-oriented offense, that statute does not apply to him and we do not discuss it here.

The former statute also imposes a duty on a person who is convicted of a sexually oriented offense in Ohio to register as a sex offender with the sheriff of the county where the person is employed or attends school, regardless of whether the person permanently or temporarily resides in Ohio. *See* former R.C. 2950.04(A)(1) and (A)(3). And it imposes a registration requirement on offenders to "register with the sheriff or other appropriate person of the other state immediately upon entering into any state other than this state in which the offender attends a school or institution of higher education on a full-time or part-time basis or upon being employed in any state other than this state for more than fourteen days or for an aggregate period of thirty or more days in that calendar year regardless of whether the offender resides or has a temporary domicile in this state, the other state, or a different state." Former R.C. 2950.04(A)(1).

{¶ 29} Former R.C. 2950.04(A)(3) imposes registration duties on offenders who come to Ohio after having been convicted of a sex offense in another jurisdiction. The registration duties under that division are generally the same for out-of-state offenders as they are for individuals convicted in Ohio—i.e., they must register their Ohio address with the county sheriff and must register with the sheriff of the county in which they work or attend school or an institution of higher education, whether that be in Ohio or outside Ohio. *See id.*

{¶ 30} Former R.C. 2950.04(B) states how a person properly completes his or her registration in Ohio. It states that a person "required by [R.C. 2950.04(A)] to register in [Ohio] personally shall obtain from the sheriff or from a designee of the sheriff a registration form that conforms to [R.C. 2950.04(C)], shall complete and sign the form, and shall return the completed form together with the offender's * * * photograph to the sheriff or the designee." *Id.* Former R.C. 2950.04(C) details the information that must be contained on the Ohio registration form.

{¶ 31} Former R.C. 2950.05 imposes a duty on people convicted of sexually oriented offenses in Ohio or in any other jurisdiction who have come to Ohio to

inform the sheriff of the county where they are then registered when they anticipate a change of address regarding their residence, school, institution of higher education, or place of employment, and then to register the new address or addresses with the sheriff in the county where the address or addresses are located, in compliance with former R.C. 2950.04(B) and (C). Former R.C. 2950.05(A) and (B). Former R.C. 2950.05(C) makes clear that if the offender's new residential, school, institution-of-higher-education, or employment address is in another state, then "the person shall register with the appropriate law enforcement officials in that state in the manner required under the law of that state." Lastly, former R.C. 2950.06 imposes a duty on offenders to periodically verify their residential, school, institution-of-higher-education, or employment addresses. For sexually oriented offenders, the periodic-address-verification provision requires verification once a year on the anniversary of the offender's initial registration, "during the period the offender * * * is required to register." Former R.C. 2950.06(B)(2).

{¶ 32} For people convicted of sexually oriented offenses in Ohio, the duty to comply with the requirements of Megan's Law—i.e., to comply with former R.C. 2950.04, 2950.041, 2950.05, and 2950.06—begins on one of two dates, depending on when the offender was convicted and whether the offender was sentenced to a term of imprisonment. For people who were convicted of a sexually oriented offense on or after July 1, 1997 (the effective date of the H.B. 180 version of Megan's Law) and sentenced to a term of imprisonment or confinement for the offense, the obligation to comply with Megan's Law commences upon release from confinement. *See* former R.C. 2950.04(A)(1)(a); former R.C. 2950.07(A)(1), 150 Ohio Laws, Part IV, at 6679. For people convicted of a sexually oriented offense on or after July 1, 1997, but not sentenced to a term of imprisonment or confinement, the obligation to comply with Megan's Law commences immediately upon conviction. *See* former R.C. 2950.04(A)(1)(b); former R.C. 2950.07(A)(2). Former R.C. 2950.07(B)(3) provides that a sexually oriented offender's duty to

comply with Megan's Law "continues, after the date of commencement" for a period of ten years.

{¶ 33} Unlike people convicted of sexually oriented offenses in Ohio, people convicted of such offenses in other jurisdictions have no obligation to comply with Megan's Law unless and until they come to Ohio. *See* former R.C. 2950.04(A)(3)(a) and (b); former R.C. 2950.07(A)(4) (the duty to comply with Megan's Law regarding residential-address reporting commences on "the date that the offender begins to reside or becomes temporarily domiciled in this state," and the duty to comply regarding addresses for schools, institutions of higher education, and places of employment commences on the date the offender begins attending the school or institution or becomes employed in the state).

{¶ 34} Indeed, former R.C. 2950.03, 150 Ohio Laws, Part IV, at 5783, which contains provisions mandating notice to offenders of their obligation to register and report under the law, further elucidates that an Ohio offender's Megan's Law duties commence immediately upon the offender's release from incarceration or his or her conviction but that the duties of a person convicted outside Ohio commence upon his or her entering Ohio. Former R.C. 2950.03(A) provides that a person convicted of a sexually oriented offense "shall be provided notice in accordance with this section of the offender's * * * duties imposed under [R.C.] 2950.04, 2950.041, 2950.05, and 2950.06 * * * and *of the offender's duties to similarly register, provide notice of a change, and verify addresses in another state if the offender resides, is temporarily domiciled, attends a school or institution of higher education, or is employed in a state other than this state*." (Emphasis added.) This notice must be provided to the offender by the judge at sentencing for the sexually oriented offense, *see* former R.C. 2950.03(A)(2), or by the official in charge of the jail or state correctional institution before the person's release if the person was serving a term of imprisonment or confinement for a sexually oriented offense when Megan's Law took effect, *see* former R.C. 2950.03(A)(1). However,

the required notice is different regarding people convicted of such an offense outside Ohio. Former R.C. 2950.03(A)(7) states:

> If the person is an offender * * * who has a duty to register in this state pursuant to [R.C. 2950.04(A)(3), i.e., a duty to register as a person convicted of an out-of-state offense upon entering this state], the offender * * * is presumed to have knowledge of the law and of the offender's * * * duties imposed under [R.C.] 2950.04, 2950.041, 2950.05, and 2950.06.

{¶ 35} The key takeaway from the statutes discussed above is that people convicted of a sexually oriented offense in Ohio become subject to the registration and reporting requirements of Megan's Law upon their conviction or release from imprisonment or other confinement, whereas people convicted of a sex offense in another jurisdiction become subject to Ohio's registration and reporting laws upon coming to Ohio with the intent to remain for some duration as a resident, student, or employee. That is, the date of the person's conviction, the date of the person's release from prison or other confinement, or the date on which the person comes to Ohio serves as the date on which the person's duty to comply with the law commences. And for sexually oriented offenders like Schilling, the obligation to comply with Megan's Law lasts for ten years from the date of commencement. *See* R.C. 2950.07(A) and (B)(3).

{¶ 36} The state's contention that Schilling's obligation to register and report in Ohio under Megan's Law for a period of ten years did not start until December 2020 when he moved to Ohio and registered here is not supported by the law's plain language. Under former R.C. 2950.07(A)(2), Schilling's duty to comply with Megan's Law commenced June 11, 2008—the date of his conviction. And under former R.C. 2950.07(B)(3), Schilling's obligation to comply with

Megan's Law ended June 11, 2018, ten years later. That Schilling lived in Kentucky during that time and was not obligated to register and report in Ohio but instead was obligated to register and report in Kentucky under that state's laws does not change the dates during which Ohio's Megan's Law applied to him. Nothing in Megan's Law establishes a different registration and reporting commencement date or duration or otherwise tolls the ten-year period of registration and reporting that applies to a sexually oriented offender who was convicted in Ohio merely because the offender lives out of state. Instead, the person remains subject to the Ohio law to the extent that the law applies, and the ten-year-obligation period continues to run even when the offender has no active duty to register in Ohio.[5] Indeed, the only such tolling provision in Megan's Law applies to offenders who become incarcerated after they have commenced registering and reporting. Specifically, former R.C. 2950.07(D) states:

> The duty of an offender * * * to register under this chapter is tolled for any period during which the offender * * * is returned to confinement in a secure facility for any reason or imprisoned for an offense when the confinement in a secure facility or imprisonment occurs subsequent to the date [of commencement]. The offender's * * * duty to register under this chapter resumes upon the offender's * * * release from confinement in a secure facility or imprisonment.

{¶ 37} Additionally, the state's reliance on R.C. 2950.07(E) in support of its argument that Schilling's ten-year reporting obligation began in December 2020

5. A person can be prosecuted for failure to comply with the law if he or she is under an active duty to do so. *See* former and current R.C. 2950.99(A)(1)(a).

when he came to Ohio is misplaced. When Schilling committed his offense in September 2007, R.C. 2950.07(E)[6] stated:

> An offender * * * who *has been convicted or pleaded guilty * * * in a court in another state, in a federal court, military court, or Indian tribal court, or in a court of any nation other than the United States for committing * * * a sexually oriented offense* that is not a registration-exempt sexually oriented offense * * * may apply to the sheriff of the county in which the offender * * * resides or temporarily is domiciled, or in which the offender attends a school or institution of higher education or is employed, for credit against the duty to register for the time that the offender * * * has complied with the sex offender * * * registration requirements of another jurisdiction. The sheriff shall grant the offender * * * credit against the duty to register for time for which the offender * * * provides adequate proof that [he or she] has complied with the sex offender * * * registration requirements of another jurisdiction. If the offender * * * disagrees with the determination of the sheriff, the offender * * * may appeal the determination to the court of common pleas of the county in which the offender * * * resides or is temporarily domiciled, or in which the offender attends a school or institution of higher education or is employed.

6. Since we determine that Schilling is subject to the provisions of Megan's Law in effect at the time he committed his offense on September 25, 2007, we apply the version of R.C. 2950.07(E) in effect at that time. *See* 150 Ohio Laws, Part IV, at 6685-6686. The First District below apparently considered the version in effect as of January 1, 2008, the effective date of the AWA, after determining that Schilling was a Tier I offender under the AWA. *See* 2022-Ohio-1773, 189 N.E.3d 405, at ¶ 20-21. Although the AWA made slight changes to R.C. 2950.07(E) as it existed under Megan's Law on September 25, 2007, the changes are inconsequential to the question here.

(Emphasis added.) Former R.C. 2950.07(E), 150 Ohio Laws, Part IV, at 6685-6686.

{¶ 38} Under the plain language of former R.C. 2950.07(E), the provisions permitting credit against the duty to register apply only to offenders who were convicted of a sexually oriented offense "*in a court in another state, in a federal court, military court, or Indian tribal court, or in a court of any nation other than the United States*." (Emphasis added.) In other words, former R.C. 2950.07(E) applies to people who were convicted in a jurisdiction other than Ohio. In instances in which a person has been convicted of a sexually oriented offense in another jurisdiction, the provision allows the offender to seek credit for the time he or she spent complying with the other jurisdiction's registration and reporting requirements, whatever they may have been, when the offender becomes subject to Ohio's registration and reporting laws by moving here permanently, becoming domiciled here temporarily, working here, or going to school here, *see* former R.C. 2950.04(A)(3)(a) and (b) (commencement of duties to register and report under Megan's Law for out-of-state convictions begins when the offender comes to Ohio). That former R.C. 2950.07(E) provides a specific mechanism for a person with an out-of-state conviction to be credited in Ohio for the period spent complying with the other state's sex-offender registration and reporting laws does not exempt a person, like Schilling, who became subject to Megan's Law on the date of his or her conviction in Ohio, from being relieved of his or her obligation under the law when the reporting period has ended.

IV. Conclusion

{¶ 39} For the foregoing reasons, we hold that a person's classification as a sexually oriented offender under Megan's Law occurs by operation of law, and therefore, our recent decision in *Henderson*, 161 Ohio St.3d 285, 2020-Ohio-4784, 162 N.E.3d 776, does not apply to a trial court's error in determining a person's sex-offender classification. We additionally hold that a person convicted of a

sexually oriented offense in Ohio is entitled to be relieved of his or her registration and reporting obligations under Megan's Law after the reporting period has ended, even if the person was living outside Ohio and reported in another state during the registration and reporting period. In applying these holdings, we determine that Schilling's June 11, 2008 conviction for attempted voyeurism, with the offense having occurred on September 25, 2007, rendered him, as a matter of law, a sexually oriented offender subject to a ten-year registration and reporting obligation under Megan's Law and that the obligation ended June 11, 2018. Accordingly, we reverse the First District's decision to the extent that it applied *Henderson* to the trial court's erroneous classification of Schilling as a Tier I offender subject to the AWA, and we affirm its determination that Schilling's ten-year registration and reporting obligation was not tolled while he was registering and reporting in Kentucky. In accord with these determinations, we hold that Schilling's ten-year reporting obligation ended in 2018 and that he therefore is no longer under any obligation to report as a sex offender for his 2008 conviction for attempted voyeurism.

Judgment affirmed in part
and reversed in part.

KENNEDY, C.J., and FISCHER, DEWINE, DONNELLY, BRUNNER, and MILLER, JJ., concur.

MARK C. MILLER, J., of the Third District Court of Appeals, sitting for DETERS, J.

Melissa A. Powers, Hamilton County Prosecuting Attorney, and Ernest W. Lee Jr., Assistant Prosecuting Attorney, for appellant.

Timothy Young, Ohio Public Defender, and Stephen P. Hardwick, Assistant Public Defender, for appellee.
