

[Cite as *State v. Phillips*, 2006-Ohio-1607.]

IN THE COURT OF APPEALS FOR MONTGOMERY COUNTY, OHIO

STATE OF OHIO :
Plaintiff- Appellee : C.A. Case No. 21128
vs. : T.C. Case No. 05-CR-446
JONATHAN M. PHILLIPS : (Criminal Appeal from Common
: Pleas Court)
Defendant-Appellant :

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OPINION

Rendered on the 31st day of March, 2006.

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MATHIAS H. HECK, JR., Prosecuting Attorney, By: JOHNNA M. SHIA, Assistant
Prosecuting Attorney, Atty. Reg. #0067685, Appellate Division, P.O. Box 972, 301 W.
Third Street, 5th Floor, Dayton, Ohio 45422
Attorneys for Plaintiff-Appellee

HAL R. ARENSTEIN, Atty. Reg. #0009999, The Citadel, 114 E. Eighth Street,
Cincinnati, Ohio 45202
Attorney for Defendant-Appellant

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BROGAN, J.

{¶ 1} Jonathan Phillips appeals from his conviction of a felony violation of R.C.
2919.25, Ohio’s domestic violence statute. Phillips’ victim was Stacy Bennett who was
alleged in the indictment to be a “family or household member” although she was not
married to Phillips. He contends the domestic violence statute is unconstitutional as a
result of the recent Marriage Amendment, Article XV, Section 11 of Ohio’s Constitution

which provides that the State and its political subdivisions shall not create or recognize a legal status for relationships of unmarried individuals “that intends to approximate the design, qualities, significance or effect of marriage.”

{¶ 2} We have recently agreed with Phillips’ contention in *State v. Karen Ward*, Greene App. No. 05-CA-75. The appellant’s assignment of error is sustained. Nothing precludes the State from charging Phillips with assault pursuant to R.C. 2903.13(A). The Judgment of the trial court is Reversed.

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WOLFF, J., and GLASSER, J., concur.

(Hon. George Glasser, Retired from the Sixth Appellate District, Sitting by assignment of the Chief Justice of the Supreme Court of Ohio).

Copies mailed to:
Johnna M. Shia
Hal R. Arenstein
Hon. Mary Katherine Huffman