

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
WASHINGTON COUNTY

The State of Ohio,	:	
	:	
Plaintiff-Appellee,	:	Case No. 09CA3
	:	
v.	:	
	:	
Richard Mollohan,	:	<u>DECISION AND</u>
	:	<u>JUDGMENT ENTRY</u>
	:	
Defendant-Appellant.	:	File-stamped date: 9-24-09

APPEARANCES:

Barry W. Wilford, Kura & Wilford Co., L.P.A., Columbus, Ohio, for appellant.

James Schneider, Washington County Prosecutor, and Alison L. Cauthorn, Washington County Assistant Prosecutor, for appellee.

Kline, P.J.:

{¶1} Richard Mollohan (hereinafter “Mollohan”) appeals the judgment of the Washington County Court of Common Pleas. The trial court upheld Mollohan’s reclassification as a Tier III sex offender under R.C. 2950, as amended by Senate Bill 10 (hereinafter “S.B. 10”). On appeal, Mollohan contends that the application of S.B. 10 violates several constitutional provisions. We disagree. This court has repeatedly rejected all of Mollohan’s various arguments, and we find no reason to reassess our determinations at this time. Accordingly, we affirm the judgment of the trial court.

I.

{¶2} In 1998, Mollohan was convicted of Gross Sexual Imposition in violation of R.C. 2907.05(A)(4). See *State v. Mollohan* (Aug. 19, 1999), Washington App. No. 98 CA 13; *State v. Mollohan* (June 14, 2000), Washington App. No. 99 CA 42. As a result, the trial court classified Mollohan as a sexual predator under the previous sex offender classification scheme.

{¶3} In late 2007, Mollohan received a NOTICE OF NEW CLASSIFICATION AND REGISTRATION DUTIES from the Office of the Ohio Attorney General. The notice stated that, effective January 1, 2008, Mollohan was being reclassified as a Tier III sex offender pursuant to S.B. 10. On January 25, 2008, Mollohan filed a petition to contest his reclassification. The trial court denied Mollohan's petition and upheld his reclassification as a Tier III sex offender.

{¶4} Mollohan appeals, asserting the following assignment of error: "THE RECLASSIFICATION OF APPELLANT UNDER THE ADAM WALSH ACT (SENATE BILL 10) VIOLATED THE DUE PROCESS, DOUBLE JEOPARDY AND EX POST FACTO PROVISIONS OF THE UNITED STATES AND OHIO CONSTITUTIONS. UNITED STATES CONSTITUTION, ARTICLE I, SECTION X, AND AMENDMENTS V & XIV; OHIO CONSTITUTION. ARTICLE I § 16; ARTICLE II §26."

II.

{¶5} In his only assignment of error, Mollohan contends that the application of S.B. 10 violates several constitutional provisions. See, generally, *State v.*

Pletcher, Ross App. No. 08CA3044, 2009-Ohio-1819, at ¶6-8 (discussing the changes to R.C. Chapter 2950 under S.B. 10).

{¶6} Mollohan’s appeal involves the interpretation of various constitutional provisions as they relate to S.B. 10. Hence, Mollohan’s arguments are all legal questions that we review de novo. See *State v. Day*, Adams App. Nos. 08CA865 & 08CA866, 2009-Ohio-3755, at ¶26; *State v. Downing*, Franklin App. No. 08AP-48, 2008-Ohio-4463, at ¶6, citing *Stuller v. Price*, Franklin App. No. 03AP-30, 2003-Ohio-6826, at ¶14; *State v. Green*, Lawrence App. No. 07CA33, 2008-Ohio-2284, at ¶7.

{¶7} Statutes enacted in Ohio are “presumed to be constitutional.” *State v. Ferguson*, 120 Ohio St.3d 7, 2008-Ohio-4824, at ¶12, citing *State ex rel. Jackman v. Cuyahoga Cty. Court of Common Pleas* (1967), 9 Ohio St.2d 159, 161. This presumption remains until one challenging a statute’s constitutionality shows, “beyond reasonable doubt, that the statute is unconstitutional.” *Ferguson* at ¶12, citing *Roosevelt Properties Co. v. Kinney* (1984), 12 Ohio St.3d 7, 13.

{¶8} Mollohan has made no arguments in support of his assignment of error. Instead, he has filed this appeal “for the sole purpose of preserving the record for further appellate review in the future.” Brief of Appellant Richard Mollohan at 3. As Mollohan correctly notes, this court has already ruled against his various constitutional challenges in numerous cases. We have found that S.B. 10 does not violate (1) an individual’s due process rights; see, e.g., *State v. Irvin*, Ross App. No. 08CA3057, 2009-Ohio-3128, at ¶23-26; *State v. Sewell*, Ross App. No. 08CA3042, 2009-Ohio-594, at ¶15-18; *State v. Netherland*, Ross

App. No. 08CA3043, 2008-Ohio-7007, at ¶16-21; (2) the United States Constitution's prohibition on ex post facto laws or the Ohio Constitution's prohibition on retroactive laws; see, e.g., *State v. Coburn*, Ross App. No. 08CA3062, 2009-Ohio-632, at ¶8-13; *State v. Randlett*, Ross App. No. 08CA3046, 2009-Ohio-112, at ¶8-15; *State v. Linville*, Ross App. No. 08CA3051, 2009-Ohio-313, at ¶7-12; *State v. Messer*, Ross App. No. 08CA3050, 2009-Ohio-312, at ¶7-13; or (3) the prohibition against double jeopardy. See, e.g., *Pletcher* at ¶14-16; *Messer* at ¶29-31; *Randlett* at ¶24-27. We find no reason to reassess our determinations at this time.

{¶9} Accordingly, we overrule Mollohan's lone assignment of error and affirm the judgment of the trial court.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT BE AFFIRMED and Appellant pay the costs herein taxed.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Washington County Court of Common Pleas 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. Exceptions.

Harsha, J. and Abele, J.: Concur in Judgment and Opinion.

For the Court

BY: _____
Roger L. Kline, Presiding Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.