

[Cite as *State v. Stevens*, 2009-Ohio-2644.]

COURT OF APPEALS
MORGAN COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-vs-

TRENT STEVENS

Defendant-Appellant

JUDGES:

Hon. Sheila G. Farmer, P. J.

Hon. W. Scott Gwin, J.

Hon. John W. Wise, J.

Case No. 08 CA 4

O P I N I O N

CHARACTER OF PROCEEDING:

Criminal Appeal from the Court of Common
Pleas, Case No. CR-04-026

JUDGMENT:

Affirmed

DATE OF JUDGMENT ENTRY:

June 5, 2009

APPEARANCES:

For Plaintiff-Appellee

RICHARD WELCH
COUNTY PROSECUTOR
AMY GRAHAM
ACTING COUNTY PROSECUTOR
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For Defendant-Appellant

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Wise, J.

{¶1} Defendant-Appellant Trent Stevens appeals his sexual predator classification in the Morgan County Court of Common Pleas.

{¶2} Plaintiff-Appellee is the State of Ohio.

STATEMENT OF THE CASE AND FACTS

{¶3} On April 22, 2004, appellant was indicted on one count of unlawful sexual conduct with a minor, in violation of R.C. 2907.04(A)(B)(3). The matter proceeded to a jury trial. The evidence at trial demonstrated:

{¶4} On December 15, 2002, appellant attended a cookout at his brother's house. C.T., a thirteen year-old girl, and her mother also attended the cookout. At some point in the evening, appellant left the cookout with C.T., eventually going to a hotel where they engaged in sexual intercourse. As a result of the encounter, C.T. became pregnant with appellant's child.

{¶5} C.T. testified at trial she never told appellant her age; nor did she act or dress like a typical thirteen-year-old girl. She also testified she smoked, consumed alcohol, and drove a car.

{¶6} Appellant had witnessed C.T. driving on several occasions.

{¶7} C.T.'s mother testified she took her to a bar, and the bartender would serve her. According to C.T.'s mother, C.T. was not a typical thirteen-year-old girl, and she dressed provocatively and acted more mature than someone her age.

{¶8} Following the presentation of evidence, the jury found appellant guilty as charged. The trial court imposed a five-year prison sentence. The trial court also determined appellant was a sexual predator pursuant to R.C. §2950.01(E).

{¶9} Appellant appealed his sentence, conviction and classification to this Court which, by Opinion and Entry dated December 13, 2006, affirmed the conviction but reversed the classification. *State v. Stevens*, Morgan App. No. 05-CA-10, 2006-Ohio-6725.

{¶10} On or about January 11, 2008, appellant sent a letter to this Court requesting “re-correction” of his classification in the trial court. This Court forwarded said correspondence to the trial court, which in response, scheduled a re-sentencing hearing for February 20, 2008.

{¶11} On February 20, 2008, the trial court held a hearing on appellant’s “motion to reconsider” and by Journal Entry dated May 5, 2008, determined appellant’s classification was “other” sexually oriented offender by default based on the reversal of his sexual predator classification by the Court and the lack of a remand to the trial court for re-classification.

{¶12} Appellant now appeals his classification based on lack of jurisdiction of the trial court.

ASSIGNMENT OF ERROR

{¶13} “I THE TRIAL COURT LACKED JURISDICTION TO DETERMINE THAT THE APPELLANT IS AN "OTHER" SEXUALLY ORIENTED OFFENDER.”

I.

{¶14} In his sole assignment of error, appellant maintains the trial court lacked jurisdiction to make a determination as to appellant’s sexual predator classification.

{¶15} Upon review we find that the trial court specifically stated in its Entry that, absent a remand from this Court, it did not have the authority to re-classify appellant.

The trial court then went on to state that appellant's status must default to "other" sexually oriented offender because the statute requires that defendants in all sexually oriented offenses be classified.

{¶16} We find that the trial court did not exceed its authority as it did not do anything at said hearing other than re-iterate what this Court had already done.

{¶17} Additionally, this Court finds that under the Adam Walsh Act, the new classification system for sexual offenders, appellant is automatically classified as a Tier One (1) offender.

{¶18} Appellant's sole assignment of error is overruled.

{¶19} For the reasons stated in the foregoing opinion, the judgment of the Court of Common Pleas of Morgan County, Ohio, is affirmed.

By: Wise, J.

Farmer, P. J., and

Gwin, J., concur.

/S/ JOHN W. WISE_____

/S/ SHEILA G. FARMER_____

/S/ W. SCOTT GWIN_____

JUDGES

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