

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

THOMAS M. BUCHER, JR.,	:	APPEAL NO. C-160896
	:	TRIAL NO. SP-1600002
Petitioner-Appellant,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
STATE OF OHIO,	:	
	:	
Respondent-Appellee.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* R.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

In 2001, in Pennsylvania, petitioner-appellant Thomas M. Bucher, Jr., was convicted of aggravated indecent assault, which is substantially similar to the Ohio offense of unlawful sexual conduct with a minor. Bucher was found not to be a sexually violent predator under Pennsylvania law, but he was required to register for life as a sex offender based on the crime he had committed. In 2003, he moved to Virginia and was classified there. He moved to Hamilton County in 2015, and was automatically classified as a sexual predator under former R.C. 2950.09. Bucher filed a petition for declassification pursuant to former R.C. 2950.09(F), which the trial court denied after a hearing. Bucher has appealed.

Bucher's sole assignment of error alleges that the trial court erred in denying his petition, because he presented sufficient clear and convincing evidence that he was not likely to commit a sex offense in the future.

Bucher had the burden to demonstrate by clear and convincing evidence that he is not likely to commit a sexually-oriented offense in the future. *See State v. Pasqua*, 157 Ohio App.3d 427, 2004-Ohio-2992, 811 N.E.2d 601, ¶ 22 (1st Dist.). “ ‘Clear and convincing evidence is that measure or degree of proof which will produce in the mind of the trier of facts a firm belief or conviction as to the allegations sought to be established.’ ” *State v. Eppinger*, 91 Ohio St.3d 158, 164, 743 N.E.2d 881 (2001), quoting *Cross v. Ledford*, 161 Ohio St. 469, 477, 120 N.E.2d 118 (1954).

The trial court has discretion to determine what weight, if any, to assign to each former R.C. 2950.09(B) factor, *State v. Thompson*, 92 Ohio St.3d 584, 752 N.E.2d 276 (2001), and what weight to be given to the testimony of any expert witnesses. *State v. Morales*, 153 Ohio App.3d 635, 2003-Ohio-4200, 795 N.E.2d 145, ¶ 6 (1st Dist.). “Since the trial court is vested with broad discretion in evaluating the evidence of recidivism under the legislative guidelines in [former] R.C. 2950.05(B)(2), an appellate court must be deferential to the trial court’s findings unless they are clearly erroneous.” *Id.* at ¶ 12, citing *State v. Cook*, 83 Ohio St.3d 404, 426, 700 N.E.2d 570 (1998).

Bucher presented an expert’s opinion that he was not likely to commit a sexually-oriented offense in the future. He also presented evidence that he had not committed another offense, had undergone treatment, and had earned a PhD. and was employed by Procter and Gamble. Further, at the time of his conviction, the Pennsylvania court, after considering factors similar to those the trial court was required to consider under former R.C. 2950.09(B), had determined that he was not likely to commit a sex offense in the future.

In denying Bucher’s petition, the trial court considered the former R.C. 2950.09(B) guidelines. The court noted that Bucher had met the 14-year-old victim on-line while he was in the Navy, had driven to another state to meet her, and had told her

that police might “question them” because she looked so young. The court discounted the opinion of Bucher’s expert because it was based on Bucher’s self-reporting, because the expert had focused on Bucher’s actions postconviction and did not examine Bucher’s history prior to the conviction, and because the state had raised questions about whether Bucher “had been totally candid with the expert regarding the circumstances of the offense.” Further, the court noted that the expert had not conducted any testing of Bucher to determine his likelihood to reoffend. The court also stated that “[w]hile it is true that the Pennsylvania court examined very similar factors in 2001 to determine that [Bucher] was not a violent sexual predator, the evidence before this Court does not establish by clear and convincing evidence that [Bucher] is unlikely to re-offend.”

Following a review of the record, we cannot say that the trial court abused its discretion in weighing the former R.C. 2950.09(B) factors or in discounting the expert’s opinion. We hold that the trial court did not err in denying Bucher’s petition. The assignment of error is overruled. The judgment of the trial court is affirmed.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**MOCK, P.J., CUNNINGHAM and DETERS, JJ.**

To the clerk:

Enter upon the journal of the court on December 13, 2017  
per order of the court \_\_\_\_\_.  
Presiding Judge