

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

STATE OF OHIO,	:	APPEAL NO. C-080206
	:	TRIAL NO. B-0708463
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
DEMETRIUS WHATLEY,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. See S.Ct.R.Rep.Op. 3(A); App.R. 11.1(E); Loc.R. 11.1.1.

On February 20, 2008, defendant-appellant Demetrius Whatley pleaded guilty to and was convicted of rape and gross sexual imposition. The offenses occurred between March 1, 2006, and June 30, 2006. Over defense counsel’s objection, the trial court classified Whatley as a Tier III sex offender under Am.Sub.S.B. No. 10 (“Senate Bill 10”). Whatley has appealed.

Whatley’s sole assignment of error alleges that the trial court erred in classifying him as a Tier III sex offender under Senate Bill 10.

In *State v. Williams*, 129 Ohio St.3d 344, 2011-Ohio-3374, 952 N.E.2d 1108, the Ohio Supreme Court held that “2007 Am.Sub.S.B. No. 10, as applied to defendants who committed sex offenses prior to its enactment, violates Section 28, Article II of the Ohio Constitution, which prohibits the General Assembly from passing retroactive laws.” *Id.*, syllabus. The court concluded that Senate Bill 10’s

more stringent classification, registration, and community-notification provisions imposed “new or additional burdens, duties, obligations, or liabilities as to a past transaction” and created “new burdens, new duties, new obligations, or new liabilities not existing at the time” upon sex offenders who had committed their crimes prior to Senate Bill 10’s enactment. *Id.* at ¶19. The court held that Senate Bill 10’s classification, registration, and community-notification provisions were punitive and could not constitutionally be retroactively applied to sex offenders who had committed their sex offenses before its enactment.

Senate Bill 10 was enacted in 2007. Whatley committed his crimes in 2006. Therefore, Senate Bill 10’s classification, registration, and community-notification provisions may not be applied to him. The assignment of error is sustained.

That portion of the trial court’s judgment classifying Whatley as a Tier III sex offender under Senate Bill 10 is reversed, and the cause is remanded for application of Ohio’s sex-offender classification, registration, and community-notification laws that were in effect in 2006 when Whatley committed his sex offenses. The trial court’s judgment is affirmed in all other respects.

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.

**DINKELACKER, P.J., HILDEBRANDT and HENDON, JJ.**

To the clerk:

Enter upon the journal of the court on January 13, 2012

per order of the court \_\_\_\_\_.  
Presiding Judge