

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

GREGORY R. TIEMAN,	:	APPEAL NO. C-080220
	:	TRIAL NO. SP-0800220
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.¹

In 2002, petitioner-appellant Gregory R. Tieman was convicted of sexual battery. Following a hearing, Tieman was designated a sexually oriented offender. Under former R.C. Chapter 2950, Tieman was required to annually register as a sexual offender for ten years.

Tieman discovered that the Ohio Attorney General’s website indicated that he had been reclassified under Am.Sub.S.B. No. 10 (“Senate Bill 10”) as a Tier III sex offender, requiring him to register with the local sheriff every 90 days for life. Tieman filed an R.C. 2950.031(E) petition to contest his reclassification, challenging the constitutionality of Senate Bill 10. After a hearing, the trial court overruled Tieman’s constitutional challenges to Senate Bill 10 and denied his petition. The trial court exempted Tieman from community notification.

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

Tieman's first assignment of error alleges that the retroactive application of Senate Bill 10's tier-classification and registration requirements violates the constitutional ban on ex post facto laws.

"The Ex Post Facto Clause applies only to criminal statutes."² We held in *Sewell v. State*³ that the tier-classification and registration provisions of Senate Bill 10 are remedial and not punitive, and that they do not have the effect of converting a remedial statute into a punitive one. Because Senate Bill 10's classification and registration provisions are civil and remedial, not criminal, they do not violate the constitutional ban on ex post facto laws. The first assignment of error is overruled.

Tieman's second, third, and fourth assignments of error are overruled on the authority of *Sewell*, in which we held that the retroactive application of Senate Bill 10's tier-classification and registration requirements does not violate the prohibition on retroactive laws contained in Section 28, Article II of the Ohio Constitution, the Double Jeopardy Clause of the Ohio Constitution, or the separation-of-powers doctrine. Tieman's arguments under the United States Constitution are also overruled on *Sewell's* reasoning.

Tieman's fifth assignment of error is overruled because he has no standing to challenge Senate Bill 10's residency restriction: he has not shown that he lives or owns property within the restricted area or that he has been forced to move outside the restricted area.⁴ We note that the Ohio Supreme Court held in *Hyle v. Porter*⁵ that because the residency restriction in former R.C. 2950.031 was not expressly made

² See *State v. Cook*, 83 Ohio St.3d 404, 1998-Ohio-291, 700 N.E.2d 570, citing *California Dept. of Corrections v. Morales* (1995), 514 U.S. 499, 504, 115 S.Ct. 1597, and *Collins v. Youngblood* (1990), 497 U.S. 37, 43, 110 S.Ct. 2715.

³ 1st Dist. No. C-080503, 2009-Ohio-872.

⁴ See *State v. Randlett*, 4th Dist. No. 08CA3046, 2009-Ohio-112; *State v. Swank*, 11th Dist. No. 2008-L-019, 2008-Ohio-6059; *State v. Duncan*, 3rd Dist. No. 7-08-03, 2008-Ohio-5830.

⁵ 117 Ohio St. 3d 165, 2008-Ohio-542, 882 N.E.2d 899.

retrospective, it could not be applied to an offender who had bought his home and committed his offense before the effective date of the statute.

Tieman's sixth assignment of error is overruled because he has no standing to assert that the retroactive application of Senate Bill 10's tier-classification and registration requirements violates the Contract Clauses of the United States and Ohio Constitutions: the record does not reflect that Tieman's conviction was the result of a plea bargain.

Therefore, 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.

HENDON, P.J., HILDEBRANDT and CUNNINGHAM, JJ.

To the Clerk:

Enter upon the Journal of the Court on June 3, 2009

per order of the Court _____
Presiding Judge