

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

DAVID C. BRADSHAW,	:	APPEAL NO. C-080536
	:	TRIAL NO. SP-0800048
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.<sup>1</sup>

Petitioner-appellant David C. Bradshaw pleaded guilty to gross sexual imposition. After a hearing on November 17, 1997, he was designated a sexually oriented offender. Under former R.C. Chapter 2950, Bradshaw was required to annually register as a sexual offender for ten years.

Bradshaw received a notice from the Ohio Attorney General stating that he had been reclassified under Am.Sub.S.B. No. 10 (“Senate Bill 10”) as a Tier II sex offender and that he was required to register with the local sheriff every 180 days for 25 years, with credit for the time he had previously registered. Bradshaw 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 Bradshaw’s constitutional challenges to Senate Bill 10 and denied his petition.

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

Bradshaw's assignment of error, which alleges that the trial court erred in denying his petition to contest his reclassification, is overruled.

"The Ex Post Facto Clause applies only to criminal statutes."<sup>2</sup> We held in *Sewell v. State*<sup>3</sup> 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 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.<sup>4</sup> Bradshaw's arguments under the United States Constitution are also overruled on *Sewell's* reasoning.

Bradshaw has no standing to challenge Senate Bill 10's residency restriction because 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.<sup>5</sup> We note that the Ohio Supreme Court held in *Hyle v. Porter*<sup>6</sup> that because the residency restriction in former R.C. 2950.031 was not expressly made 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.

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<sup>2</sup> 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.

<sup>3</sup> 1st Dist. No. C-080503, 2009-Ohio-872.

<sup>4</sup> *Id.*

<sup>5</sup> 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.

<sup>6</sup> 117 Ohio St.3d 165, 2008-Ohio-542, 882 N.E.2d 899.

Bradshaw is not subject to community notification because he is a Tier II sex offender who had been designated a sexually oriented offender under former R.C. Chapter 2950.<sup>7</sup>

The retroactive application of Senate Bill 10's registration requirements does not constitute a breach of Bradshaw's plea agreement. Bradshaw had been classified under former R.C. Chapter 2950 as a sexually oriented offender. There is no evidence in the record that the issue of Bradshaw's sexual-offender classification had been discussed as part of his plea agreement. There was no testimony that Bradshaw's expectation in pleading guilty was that he would only have to register for ten years or that his duty to register was a principal part of his plea agreement. Under these circumstances, the trial court was correct in concluding that Bradshaw had not shown that a ten-year registration requirement was a term of any plea agreement. Therefore, the retroactive application of Senate Bill 10's tier-classification and registration requirements does not impair any contract between Bradshaw and the state or violate his constitutional right to contract.

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

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<sup>7</sup> See R.C. 2950.11(F).