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

THOMAS WHITLEY,	:	APPEAL NO. C-081242 TRIAL NO. SP-0800601
Petitioner-Appellant,	:	*JUDGMENT ENTRY.*
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 S.Ct.R.Rep.Op. 3(A); App.R. 11.1(E); Loc.R. 11.1.1.

Petitioner-appellant, a convicted sex offender, was judicially classified under former R.C. Chapter 2950 ("Megan's Law"). See Am.Sub.H.B. No. 180, 146 Ohio Laws, Part II, 2560, enacted in 1996, amended in 2003 by Am.Sub.S.B. No. 5, 150 Ohio Laws, Part IV, 6556. Petitioner was later notified that he had been reclassified under Am.Sub.S.B. No. 10 ("Senate Bill 10") as a Tier sex offender. Petitioner filed a petition to contest the reclassification, challenging the constitutionality of Senate Bill 10. The trial court overruled the constitutional challenges to Senate Bill 10 and denied the petition.

The parties have filed a "joint motion to submit on the authority of *State v. Bodyke*." We hereby grant the motion.

In *State v. Bodyke*, 126 Ohio St.3d 266, 2010-Ohio-2424, 933 N.E.2d 753, the Ohio Supreme Court held that "R.C. 2950.031 and 2950.032, which require the

attorney general to reclassify sex offenders whose classifications have already been adjudicated by a court and made the subject of a final order, violate the separation-of-powers doctrine by requiring the reopening of final judgments." See id., paragraph three of the syllabus. Further, the court held that the statutes violate the separation-of-powers doctrine because they "impermissibly instruct the executive branch to review past decisions of the judicial branch." See id., paragraph two of the syllabus. The court severed the statutory provisions, holding that "R.C. 2950.031 and 2950.032 may not be applied to offenders previously adjudicated by judges under Megan's Law, and the classifications and community-notification and registration orders imposed previously by judges are reinstated." See id. at ¶66.

Petitioner had been classified under Megan's Law. In accordance with *Bodyke*, the judgment of the trial court is reversed, and petitioner's previous classification, community-notification, and registration orders are reinstated. The remaining assignments of error are made moot.

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.

HILDEBRANDT, P.J., SUNDERMANN and **FISCHER, JJ.**

To the clerk:

Enter upon the journal of the court on December 14, 2011

per order of the court _____.
Presiding Judge