

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

STATE OF OHIO,	:	APPEAL NO. C-110015
	:	TRIAL NO. B-1002315
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
GEORGE WOODS,	:	
	:	
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 April 15, 2010, defendant-appellant George Woods, who was required to register as a sex offender on the basis of an October 23, 1997, conviction for sexual battery, was indicted for failing to provide notice of an address change, a fourth-degree felony. Woods had been classified as a sexually oriented offender 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. The parties stated that Woods had been reclassified as a Tier II sex offender by the Ohio Attorney General under Am.Sub.S.B. No. 10 (“Senate Bill 10”), which the General Assembly enacted in 2007 to implement the federal Adam Walsh Child Protection and Safety Act of 2006.¹

¹ We note that a conviction for sexual battery would have constituted a Tier III offense under Senate Bill 10, and not a Tier II offense. R.C. 2950.01(G)(1)(a).

Woods pleaded no contest. He stipulated that his failure to notify occurred within his initial ten-year registration period. The trial court found Woods guilty and sentenced him to three years of community control.

The first assignment of error alleges that the trial court erred in failing to dismiss the indictment because it was based on an unconstitutional reclassification under Senate Bill 10.

In *State v. Bodyke*, 126 Ohio St.3d 266, 2010-Ohio-2424, 933 N.E.2d 753, the Ohio Supreme Court held that Senate Bill 10's requirement that the attorney general reclassify offenders who had been judicially classified under Megan's Law violated the separation-of-powers doctrine. *Id.*, paragraph three of the syllabus. The court reinstated the classifications and the community-notification and registration orders previously imposed. *Id.* at ¶66. The Supreme Court also held, citing *Bodyke*, that an offender who had been judicially classified as a sexually oriented offender and ordered to register annually for ten years under Megan's Law could not be prosecuted for failing to comply with a more restrictive registration requirement after reclassification under Senate Bill 10. *State v. Gingell*, 128 Ohio St.3d 444, 2011-Ohio-1481, 946 N.E.2d 192. Further, the Supreme Court held in *State v. Williams*, 129 Ohio St.3d 344, 2011-Ohio-3374, 952 N.E.2d 1108, 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.

Woods was classified under Megan's Law as a sexually oriented offender. He was subsequently reclassified under Senate Bill 10. Pursuant to *Bodyke*, Woods' Megan's Law classification, community-notification, and registration orders were reinstated. Under Megan's Law, Woods had an ongoing duty to notify the sheriff of

any change of address. The duty remained the same under both versions of R.C. Chapter 2950 and was not affected by any reclassification. Therefore, his failure-to-notify offense was not based upon an unconstitutional reclassification. *State v. Bowling* (Sept. 30, 2011), 1st Dist. No. C-100323, 2011-Ohio-4946; *State v. Freeman* (Aug. 31, 2011), 1st Dist. No. C-100389, 2011-Ohio-4357. The first assignment of error is overruled.

The second assignment of error alleges that the trial court erred in applying current R.C. 2950.99, which prescribes the penalty for Woods' failure-to-notify offense. Woods argues that the court should have applied the version of R.C. 2950.99 that was in effect at the time of his original classification. Therefore, Woods argues, he should have been charged with a fifth-degree felony rather than a fourth-degree felony.

Current R.C. 2950.99's penalty provisions became effective January 1, 2008. Woods pleaded no contest to failing to notify the sheriff of an address change on or about March 27, 2010. Although Woods' duty to register stemmed from his sex offense, his failure to notify the sheriff of an address change was a new offense that he had committed after the effective date of current R.C. 2950.99's penalty provisions. See *State v. Bowling*, supra at ¶26; *State v. Freeman*, supra at ¶25. Therefore, current R.C. 2950.99 was not applied retroactively to Woods' conduct. *Id.*

Woods had an ongoing duty to notify the sheriff of any change of address. He failed to do so. His conviction and sentence were based upon his failure-to-notify offense, which occurred after R.C. 2950.99's effective date. The second assignment of error is overruled.

The judgment of the trial court is affirmed.

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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., CUNNINGHAM and FISCHER, JJ.

To the clerk:

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

per order of the court _____.
Presiding Judge