

[Cite as *State v. Reeder*, 2009-Ohio-3035.]

IN THE COURT OF APPEALS FOR MONTGOMERY COUNTY, OHIO

STATE OF OHIO	:	
Plaintiff-Appellee	:	C.A. CASE NO. 22988
v.	:	T.C. NO. 99 CR 2521
CRAIG REEDER	:	(Criminal Appeal from Common Pleas Court)
Defendant-Appellant	:	

OPINION

Rendered on the 19th day of June, 2009.

DOUGLAS M. TROUT, Atty. Reg. No. 0072027, Assistant Prosecuting Attorney, 301 W. Third Street, 5th Floor, Dayton, Ohio 45422
Attorney for Plaintiff-Appellee

CHRISTOPHER THOMPSON, Atty. Reg. No. 0055379, 130 W. Second Street, Suite 2050, Dayton, Ohio 45402
Attorney for Defendant-Appellant

FROELICH, J.

{¶ 1} Craig E. Reeder appeals from a judgment of the Montgomery County Court of Common Pleas, which overruled his constitutional challenges to R.C. Chapter 2950, as amended by Senate Bill 10.

{¶ 2} On January 21, 2000, Reeder pled guilty to gross sexual imposition, in violation

of R.C. 2907.05(A)(1), for which the court subsequently sentenced him to five years of community control. In February 2000, the court designated Reeder a sexually oriented offender, which required him to register annually with the local sheriff's office for ten years, in accordance with the registration requirements set forth in Ohio's Sex Offender Registration and Notification Act, R.C. Chapter 2950 ("SORN").

{¶ 3} In 2007, the General Assembly enacted Senate Bill 10 ("S.B. 10") to implement the federal Adam Walsh Child Protection and Safety Act of 2006. Among other changes, S.B. 10 modified the classification scheme for offenders who are subject to the Act's registration and notification requirements. S.B. 10 created a three-tiered system, in which a sex offender's classification is determined based on the offense of which the offender was convicted.

{¶ 4} In accordance with S.B. 10, Reeder received a notice from the Ohio Attorney General, informing him of recent changes to SORN and that he had been reclassified as a Tier I sex offender. As a Tier I sex offender, Reeder would be required to register annually for fifteen years.

{¶ 5} On January 14, 2008, Reeder filed a petition to contest his reclassification. He raised several constitutional challenges to S.B. 10, including that retroactive application of S.B. 10 violates the prohibitions on ex post facto laws and retroactive laws. He also asserted that reclassification constitutes a violation of the separation of powers doctrine, a violation of his constitutional right to contract, and multiple punishments under the Double Jeopardy Clause. Reeder argued that reclassification under S.B. 10 was barred by res judicata and collateral estoppel. Reeder requested a hearing in accordance with R.C. 2950.031(E) and R.C. 2950.032(E).

{¶ 6} The State moved to dismiss Reeder’s petition, asserting that the trial court lacked jurisdiction to consider Reeder’s constitutional arguments at a hearing on a petition to contest reclassification. The State argued that a hearing under R.C. 2950.031(E) is limited to the issues of how the registration requirements were applied to Reeder and whether those requirements apply to him at all. The State claimed that the appropriate vehicle for raising constitutional challenges to S.B. 10 was a declaratory judgment action. As an alternative argument, the State asserted that the petition should be dismissed because S.B. 10 is constitutional.

{¶ 7} On September 12, 2008, the trial court overruled Reeder’s constitutional challenges to S.B. 10. Relying upon *State v. Barker* (Aug. 29, 2008), Montgomery C.P. No. 91-CR-504, and *State v. Hoke* (Aug. 29, 2008), Montgomery C.P. No. 91-CR-2354, the trial court summarily concluded that (1) S.B. 10 is not an ex post facto law; (2) the statute’s classification, registration, and notice requirements are not impermissibly retroactive; (3) S.B. 10’s residency restrictions are unconstitutionally retroactive when applied to require an owner of residential property or a resident of such property, who owned or resided in the property before the enactment of the statute, to vacate the residence; (4) S.B. 10 does not implicate double jeopardy; (5) S.B. 10 does not violate the separation of powers doctrine; (6) S.B. 10 does not entail cruel and unusual punishment; (7) S.B. 10’s residency restrictions, applied prospectively, do not violate substantive due process; (8) S.B. 10’s scheme does not violate procedural due process; and (9) the retroactive application of S.B. 10 does not constitute a breach of the petitioner’s plea agreements. The court vacated any scheduled hearings and noted that, if Reeder still desired a hearing, he “must file a separate motion detailing why a hearing is warranted in this case.” Reeder did not renew his request for a hearing.

{¶ 8} Reeder appeals from the trial court's denial of his constitutional challenges to S.B. 10.

{¶ 9} On December 5, 2009, we notified counsel that a sizable number of cases is currently pending before the Court in which the Montgomery County trial court addressed the constitutionality of S.B. 10 and did so in reliance on *Barker*. We indicated that we would treat *Barker* as the lead case, and we asked counsel to notify the court if they intended to rely on the *Barker* brief in whole, in part, or not at all. Reeder and the State have both indicated that they would rely entirely on the appellate briefs filed in *Barker*.

{¶ 10} Adopting the *Barker* appellant's brief, Reeder raises one assignment of error, in which he asserts that S.B. 10 violates the ex post facto clause of the United States Constitution; Section 28, Article II of the Ohio Constitution, which prohibits retroactive legislation; the double jeopardy provisions of the Ohio and United States Constitutions; the separation of powers doctrine; res judicata and collateral estoppel principles; and the cruel and unusual punishment provisions of the Ohio and United States Constitutions.

{¶ 11} Based on this Court's respect for stare decisis and our opinion in *State v. Barker*, Montgomery App. No. 22963, 2009-Ohio-2774, the assignment of error is overruled in its entirety.

{¶ 12} The judgment of the trial court will be affirmed.

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BROGAN, J. and FAIN, J., concur.

Copies mailed to:

Douglas M. Trout
Christopher Thompson

Hon. Mary L. Wiseman