

[Cite as *State v. Alesire*, 2009-Ohio-3921.]

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
ROSS COUNTY

STATE OF OHIO, :
 :
 Plaintiff-Appellee, : Case No. 09CA3093
 :
 vs. :
 :
 LONNY J. ALESHIRE, JR., : DECISION AND JUDGMENT ENTRY
 :
 :
 Defendant-Appellant. :

APPEARANCES:

COUNSEL FOR APPELLANT: Lonny J. Aleshire, Jr., No. 508762, CCI, P.O. Box
5500, Chillicothe, Ohio 45601, Pro Se

COUNSEL FOR APPELLEE: Michael M. Ater, Ross County Prosecuting Attorney,
and Jeffrey C. Marks, Ross County Assistant
Prosecuting Attorney, 72 North Paint Street,
Chillicothe, Ohio 45601

CIVIL APPEAL FROM COMMON PLEAS COURT
DATE JOURNALIZED: 7-30-09

ABELE, J.

{¶ 1} This is an appeal from a Ross County Common Pleas Court judgment that denied a challenge filed by Lonny J. Aleshire, Jr., petitioner below and appellant herein, to his re-classification as a Tier III sexual offender. Appellant assigns the following error for review:

“THE TRIAL COURT ERRED IN FINDING THE NEW
REPORTING REQUIREMENTS OF R.C. 2950 APPLY TO
PETITIONER WHERE THE RECORD AND EVIDENCE

DEMONSTRATED THAT THE EXISTING REPORTING REQUIREMENTS WERE A MATERIAL ELEMENT OF THE PLEA AGREEMENT.”

{¶ 2} In 2005, appellant pled guilty and was convicted of rape, six counts of unlawful sexual conduct with a minor and three counts of sexual imposition. The trial court sentenced him to serve a cumulative seven year term of imprisonment and determined him to be a sexually oriented offender. Appellant was notified in 2008 that he would be re-classified a Tier III Sex Offender under new provisions enacted as part of Ohio’s “Adam Walsh Child Protection and Safety Act” (AWA), Am.Sub.S.B. 10, 2007 Ohio Laws, File No. 10.

{¶ 3} Appellant filed the instant action below on February 19, 2008 and challenged that classification on various grounds. The matter came on for hearing and the trial court found no merit to appellant's arguments. This appeal followed.

{¶ 4} Appellant asserts in his assignment of error that his 2005 classification as “lowest tier” sexually oriented offender was a material part of his negotiated guilty plea with the State. Thus, by re-classifying him as a Tier III sex offender under the AWA, he argues that the State has impaired that contract in violation of his rights under both the United States and Ohio Constitutions. We disagree.

{¶ 5} As a general proposition of law appellant is correct that a plea agreement is a contract subject to certain constitutional protections. Be that as it may, Ohio appellate courts have considered this issue and have concluded that the AWA does not interfere with any vested property rights in the plea agreement. Generally, convicted felons do not have a reasonable expectation that their criminal conduct will not be

subject to future legislation. See e.g. Gildersleeve v. State, Cuyahoga App. Nos. 91515, 91519, 91521 & 91532, 2009-Ohio-2031, at ¶¶51-54; Moran v. State, Clermont App. No. CA2008-05-057, 2009-Ohio-1840, at ¶¶21-27; State v. Randlett, Ross App. No. 08CA3046, 2009-Ohio-112, at ¶37. We find nothing in appellant's brief to prompt us to reconsider our position and his assignment of error is hereby overruled.

{¶ 6} Having reviewed the assignment of error argued by appellant in his brief, and finding no merit therein, the trial court's judgment is hereby affirmed.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the judgment be affirmed and that appellee recover of appellant costs herein taxed.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Ross County Common Pleas Court to carry this judgment into execution.

A certified copy of this entry shall constitute that mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

Kline, P.J. & McFarland, J.: Concur in Judgment & Opinion
For the Court

Peter B. Abele, Judge

BY: _____

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.