



West Virginia E-Filing Notice

CC-05-2023-F-78

Judge: Ronald E. Wilson

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NOTICE OF FILING

IN THE CIRCUIT COURT OF BROOKE COUNTY, WEST VIRGINIA
State of West Virginia v. THOMAS ANTHONY SMOGONOVICH
CC-05-2023-F-78

The following order - case - final was FILED on 11/13/2024 8:30:33 AM

Notice Date: 11/13/2024 8:30:33 AM

Glenda Brooks
CLERK OF THE CIRCUIT COURT
Brooke County
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He did not do that, and the State contends that he committed the three crimes for not registering. See September 12, 2024, State's Response to the Defendant's Motion to Dismiss, at pg. 3, para 3,

The Supreme Court of Appeals of West Virginia previously ruled that a juvenile adjudication of delinquency shall not be deemed a conviction for purposes of the West Virginia registration act. *State v. J.E.*, 238 W. Va. 543, 796 S.E.2d 880 (2017), reading:

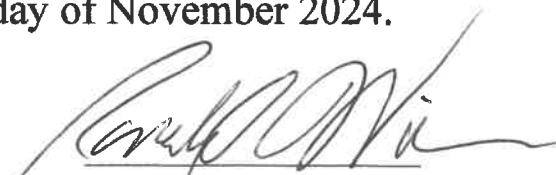
In conclusion, we hold that because this Court, in Syllabus Point 3 of *State ex rel. Slatton v. Boles*, 147 W.Va. 674, 130 S.E.2d 192 (1963), and the Legislature, in W.Va. Code § 49-4-103, have determined that a juvenile adjudication of delinquency shall not be deemed a conviction, we find the phrase "any person who has been convicted of an offense" contained in W.Va. Code § 15-12-2(b) [2012], does not include a juvenile who has been adjudicated delinquent. pursuant to *State vs J.E.*, cited supra, these convictions in 15-12-4(a)(2) cannot include juvenile adjudications.

Ohio law also supports this court's opinion that he did not have to register in West Virginia. Ohio Senate Bill 10 is a detailed statute that covers several issues, including Ohio's sex offender registration and notification requirements. The court has interpreted that statute to cause it to reach two conclusions: The first is that a juvenile who has been convicted of a sexually oriented offense in West Virginia only has a duty to register as a sex offender in Ohio if, at the time he moves to Ohio, he had a duty to register in the West Virginia. Next, Ohio law, consistent with its

treatment of juvenile offenders, addresses what happens if a juvenile, required to be a registrant in Ohio, moves to West Virginia. Ohio acknowledging that every state has its own registration requirements, and that West Virginia has different registration requirements, would follow West Virginia's law on juveniles' registration. The two states obviously differ on the consequences of a sex-related crime by a juvenile and by an adult. Ohio law does not require registration in West Virginia and West Virginia does not require registration by a juvenile offender.

Therefore, the defendant's Ohio juvenile delinquency adjudication for a sex offense cannot be consider a "conviction" under W.Va. Code 15-12-4(a)(2) by which to subject him to the felony offenses with which he has been indicted.

WHEREFORE, it is ORDERED that all counts against the defendant, Thomas Anthony Smogonovich be and hereby are DISMISSED WITH PREJUDICE, with costs to be paid by the State. It is ORDERED that any hearings scheduled hereafter are and hereby be VACATED. The Clerk of Courts is requested to send attested copies of this ORDER to counsel of record. It is further ordered that this case be stricken from the active Brooke County criminal case docket. It is so ORDERED. ENTERED this 12th day of November 2024.


Ronald E. Wilson, Judge