

Commonwealth Of Kentucky

Court of Appeals

NO. 2000-CA-000080-MR

ROBERT LEE BOBO

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE GEOFFREY P. MORRIS, JUDGE
ACTION NO. 92-CR-000443

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION

AFFIRMING

** ** * * *

BEFORE: COMBS AND McANULTY, JUDGES; MILLER, SENIOR JUDGE.¹

McANULTY, JUDGE. Appellant appeals the order of the Jefferson Circuit Court which classified him as a moderate risk sex offender. Appellant challenges the Sex Offender Registration Act on constitutional and jurisdictional grounds. We affirm.

Appellant first argues that the statute was not intended to apply retroactively to him since he was convicted before July 15, 1994, the effective date of the act. The

¹ Senior Judge John D. Miller sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

defendant in Hyatt v. Commonwealth, Ky., 72 S.W.3d 566 (2002), similarly argued that retroactive application of the 1998 and 2000 statutes violated his rights against ex post facto laws and that the statute was not intended to be applied to those convicted before July 15, 1994. Id. at 571. The Supreme Court rejected these arguments and determined that the Sex Offender Registration Act did not violate prohibitions against ex post facto legislation because the act was remedial in nature and the requirement of registration was not punishment. Id. at 571-573. Thus, we conclude that appellant's challenge is without merit.

Next, appellant argues that it was not established that he qualified as a "sex offender" under KRS 17.550(2) before the sex offender risk assessment was ordered. Although this issue was unpreserved in Hyatt, supra, the Supreme Court also addressed it. Id. at 574-575. The Court concluded that the former version of KRS 17.510(2) related to which persons were required to register in the sex offender registration program. Id. We conclude that there was no error in appellant's case.

Appellant's arguments that the trial court loses jurisdiction and cannot "reopen" the case prior to the hearing on risk assessment was rebutted by the Court in Hyatt. Id. at 578. Appellant's further arguments that the General Assembly improperly imposed duties on and assigned jurisdiction to the circuit courts were decided adverse to his position in Hyatt.

Id. at 578-579. The Supreme Court also found that it was not a violation of the doctrine of separation of powers for the General Assembly to assign the hearing duties to the courts rather than to an agency of the executive branch. Id.

From the foregoing, we determine that appellant's challenges to his risk assessment hearing and determination are without merit. The order of classification as a sex offender is affirmed.

ALL CONCUR.

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