

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

JOHN C. DAVIS,	:	APPEAL NO. C-180089
	:	TRIAL NO. SP-1700003
Petitioner-Appellant,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
STATE OF OHIO,	:	
	:	
and	:	
	:	
HAMILTON COUNTY SHERIFF'S OFFICE,	:	
	:	
Respondents-Appellees.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

In 1994, in Missouri, petitioner-appellant John C. Davis was convicted of a sexually-oriented offense and required to register as a sex offender for life. He subsequently moved to Hamilton County, and was automatically classified by the sheriff as a sexual predator under former R.C. 2950.09 due to his lifetime registration requirement in Missouri. Davis filed a petition for declassification pursuant to former R.C. 2950.09(F), which the trial court denied. The court did remove the community-notification requirement. Davis has appealed.

Davis's sole assignment of error alleges that the trial court erred in denying his petition, because he presented sufficient clear and convincing evidence that he was not likely to commit a sexually-oriented offense in the future.

Davis had the burden to demonstrate by clear and convincing evidence that he is not likely to commit a sexually-oriented offense in the future. *See State v. Pasqua*, 157 Ohio App.3d 427, 2004-Ohio-2992, 811 N.E.2d 601, ¶ 22 (1st Dist.). “ ‘Clear and convincing evidence is that measure or degree of proof which will produce in the mind of the trier of facts a firm belief or conviction as to the allegations sought to be established.’ ” *State v. Eppinger*, 91 Ohio St.3d 158, 164, 743 N.E.2d 881 (2001), quoting *Cross v. Ledford*, 161 Ohio St. 469, 477, 120 N.E.2d 118 (1954).

The trial court has discretion to determine what weight, if any, to assign to each former R.C. 2950.09(B) factor, *State v. Thompson*, 92 Ohio St.3d 584, 752 N.E.2d 276 (2001), and what weight to be given to the testimony of any expert witnesses. *State v. Morales*, 153 Ohio App.3d 635, 2003-Ohio-4200, 795 N.E.2d 145, ¶ 9 (1st Dist.). “Since the trial court is vested with broad discretion in evaluating the evidence of recidivism under the legislative guidelines in [former] R.C. 2950.05(B)(2), an appellate court must be deferential to the trial court's findings unless they are clearly erroneous.” *Id.* at ¶ 12, citing *State v. Cook*, 83 Ohio St.3d 404, 426, 700 N.E.2d 570 (1998).

Davis presented the report of psychologist Dr. Ed Connor, who assessed him as a low risk “to sexually reoffend.” Davis's conviction occurred over 23 years ago. He argued below, and in this court, without providing any additional evidence, that he has no other criminal history, he successfully completed sex-offender treatment and probation in Missouri, and he complied with all registration requirements. He also pointed out, under the former R.C. 2950.09(B) factors, that there was only one victim,

no drugs or alcohol were used, he has no history of mental illness, there was no pattern of abuse, and he did not display cruelty or make threats to the victim.

The trial court determined that Davis had not shown by clear and convincing evidence that he was not likely to commit a sexually-oriented offense in the future. In denying Davis's petition, the trial court specifically stated that it had considered the factors presented by the parties and the expert opinion.

Following a review of the record, we cannot say that the trial court erred in weighing the former R.C. 2950.09(B) factors. We hold that the trial court did not err in denying Davis's petition. The assignment of error is overruled. The judgment of the trial court is affirmed.

Further, 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.

**MOCK, P.J., ZAYAS and MYERS, JJ.**

To the clerk:

Enter upon the journal of the court on May 3, 2019

per order of the court \_\_\_\_\_.

Presiding Judge