

COURT OF APPEALS OF OHIO, SECOND APPELLATE DISTRICT, GREENE COUNTY

State v. Halderman

2026-Ohio-853 (2d Dist. 2026) · No. 2025-CA-5 · Decided March 13, 2026

SUMMARY

The Ohio Second District Court of Appeals held that the trial court improperly designated Shaun W. Halderman a sex offender after his misdemeanor conviction for unlawful sexual conduct with a minor. The court concluded that the record supported consensual sexual conduct, meaning the offense did not qualify as a sexually oriented offense under R.C. 2950.01, and that prior trial and appellate counsel were ineffective for failing to raise the issue. The court vacated its prior judgment, reversed the sex-offender designation, affirmed the judgment in all other respects, and remanded for the designation to be vacated.

CASE DETAILS

COURT	Court of Appeals of Ohio, Second Appellate District, Greene County
WRITING FOR THE COURT	Michael L. Tucker; Epley, J.; Hanseman, J.
JURISDICTION	Ohio Court of Appeals, Second Appellate District, Greene County
DECIDED	March 13, 2026
DOCKET	2025-CA-5
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Reopened direct appeal under Ohio App.R. 26(B) from a municipal-court conviction and sex-offender designation.
STANDARD OF REVIEW	The court reviewed the statutory sex-offender designation and the ineffective-assistance claims de novo as legal issues, applying the Strickland deficient-performance and prejudice test to appellate counsel.
PRECEDENTIAL VALUE	Published; precedential Ohio Court of Appeals decision
PARTIES	Shaun W. Halderman v. State of Ohio

TOPICS

appellate procedure

post-conviction relief

statutory interpretation

ineffective assistance

criminal procedure

PRACTICE AREAS

criminal procedure

appellate procedure

sex-offender registration

ineffective assistance of counsel

QUESTIONS PRESENTED

1. Whether Halderman's misdemeanor conviction under R.C. 2907.04 constituted a sexually oriented offense under R.C. 2950.01(A)(2) when the record indicated that the sexual conduct was consensual.
2. Whether the trial court erred by designating Halderman a sex offender and imposing the related registration requirement.
3. Whether trial counsel was ineffective for failing to challenge the sex-offender designation.
4. Whether prior appellate counsel was ineffective for failing to raise the unlawful designation and ineffective-assistance-of-trial-counsel issues on direct appeal.

HOLDINGS

1. The offense did not qualify as a sexually oriented offense because the record established no evidentiary basis for finding that the victim did not consent to the sexual conduct, and R.C. 2950.01(A)(2) requires that the victim did not consent.
2. The trial court erred by designating Halderman a sex offender and imposing the concomitant registration requirement.
3. Trial counsel was ineffective for failing to challenge the sex-offender designation, and prior appellate counsel was ineffective for failing to raise the unlawful designation or ineffective assistance of trial counsel on direct appeal.

KEY QUOTATIONS

“In our view, however, R.C. 2950.01(A)(2) necessarily focuses on whether the victim consented as a matter of fact.” (§ 12)

“Under these circumstances, we hold that the trial court erred in designating Halderman as a sex offender with a concomitant registration requirement.” (§ 15)

“Therefore, he has demonstrated ineffective assistance of appellate counsel under the familiar two-part test in Strickland v. Washington, 466 U.S. 668 (1984).” (§ 17)

FACTUAL BACKGROUND

Halderman, who was 18, pleaded guilty to one count of unlawful sexual conduct with a minor involving a victim under age 16. The offense was a first-degree misdemeanor because of the small age difference. At sentencing, defense counsel stated that Halderman and the victim had been in a consensual relationship, and the State did not

contend that the sexual conduct was nonconsensual. The trial court nevertheless designated Halderman a Tier I sex offender.

PROCEDURAL HISTORY

Halderman pleaded guilty to one first-degree-misdemeanor count of unlawful sexual conduct with a minor under R.C. 2907.04 in exchange for dismissal of two other counts. The municipal court imposed a jail sentence and designated him a Tier I sex offender. On the original direct appeal, the Second District rejected his challenge to the plea and affirmed, but Halderman later obtained reopening under App.R. 26(B) to challenge the sex-offender designation and the effectiveness of trial and appellate counsel. The court vacated its prior judgment, reversed the designation, affirmed the remainder of the trial-court judgment, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case is remanded to the trial court to vacate Halderman's sex-offender designation. The remainder of the trial-court judgment is affirmed.

CASES CITED

- State v. Halderman, 2025-Ohio-2253 (2d Dist.)
- State v. Blankenship, 2015-Ohio-4624
- State v. Moore, 2014-Ohio-1123
- State v. Grigsby, 2017-Ohio-8760
- State v. Adams, 2010-Ohio-171 (10th Dist.)
- State v. Clark, 2025-Ohio-4410
- Strickland v. Washington, 466 U.S. 668 (1984)

OPINION

PER CURIAM.

[Cite as State v. Halderman, 2026-Ohio-853.] IN THE COURT OF APPEALS OF OHIO SECOND APPELLATE DISTRICT GREENE COUNTY STATE OF OHIO:: C.A. No. 2025-CA-5 Appellee:: Trial Court Case No. CRB2400820A v.: (Criminal Appeal from Municipal Court) SHAUN W. HALDERMAN:: FINAL JUDGMENT ENTRY & Appellant: OPINION Pursuant to the opinion of this court rendered on March 13, 2026, the prior judgment of this court issued on June 27, 2025, is vacated, and the judgment of the trial court is affirmed in part, reversed in part, and remanded for further proceedings consistent with the opinion.

Costs to be paid by the State. Pursuant to Ohio App.R. 30(A), the clerk of the court of appeals shall immediately serve notice of this judgment upon all parties and make a note in the docket of the service. Additionally, pursuant to App.R. 27, the clerk of the court of appeals shall send a certified copy of this judgment, which constitutes a mandate, to the clerk of the trial court and note the service on the appellate docket.

For the court, MICHAEL L. TUCKER, JUDGE EPLEY, J., and HANSEMAN, J., concur.
OPINION GREENE C.A. No. 2025-CA-5 RUSSELL PATTERSON, Attorney for Appellant NOLAN P. MCNAMEE, Attorney for Appellee TUCKER, J. {¶ 1} This matter comes before us on Shaun W. Halderman's reopened direct appeal from his conviction on one count of unlawful sexual conduct with a minor, a first-degree misdemeanor. {¶ 2} Halderman contends the trial court erred at sentencing by designating him a sex offender.

He asserts that his prior appellate counsel provided ineffective assistance (1) by failing to challenge the sex offender designation as unlawful and (2) by failing to allege ineffective assistance of trial counsel for not raising the issue. {¶ 3} We agree that the trial court erred in designating Halderman a sex offender when he was not convicted of a "sexually oriented offense" as defined by R.C.

2950.01. We also conclude that his prior appellate counsel provided ineffective assistance by failing to challenge the sex offender designation or argue ineffective assistance of trial counsel on appeal. In accordance with App.R. 26(B)(9), we vacate our prior judgment affirming the trial court's judgment.

We reverse the trial court's judgment insofar as it designated Halderman a sex offender and remand the case for vacation of that designation. In all other respects, the trial court's judgment is affirmed. I. Background {¶ 4} Halderman was charged with three counts of unlawful sexual conduct with a minor in violation of R.C. 2907.04. Based on the small age difference between the victim and Halderman, who was 18 years old, the offenses were first-degree misdemeanors.

He 2 pleaded guilty to one of the charges in exchange for dismissal of the other two. The trial court imposed a 180-day jail sentence with 90 days suspended and credit for two days served. It also designated Halderman a Tier I sex offender. {¶ 5} On direct appeal, Halderman challenged the validity of his plea, arguing that it was invalid under Crim.R. 11.

We rejected this argument and overruled his sole assignment of error in *State v. Halderman*, 2025-Ohio-2253 (2d Dist.). In so doing, we made the following observation in a footnote: It is not apparent that Halderman's offense required sex-offender registration. Only certain violations of R.C. 2907.04 qualify as "sexually-oriented offenses," and a "sex offender" is a person who has been convicted of a sexually-oriented offense.

State v. Blankenship, 2015-Ohio-4624, ¶ 13, citing R.C. 2950.01(A)(2) and (3) and R.C. 2950.01(B)(1). As relevant here, “[a] person convicted of violating R.C. 2907.04 is a Tier I sex offender if the offender was less than four years older than the victim, there was no consent, and the offender has not been convicted of or pled guilty to certain sex offenses.” Id. at ¶ 14, citing R.C.

2950.01(E)(1)(b). Halderman was less than four years older than the victim, and he had not been convicted of a prior sex offense. We also see no indication in the record that the sexual conduct between Halderman and the victim was non-consensual. At sentencing, defense counsel asserted that “[t]his was not a nonconsensual relationship[.]” See December 31, 2024 Sentencing Tr. at 4.

In any event, Halderman does not argue on appeal that the offense to which he pled guilty did not qualify as a sexually-oriented offense. Therefore, we have no occasion to resolve the issue. 3 Id. at ¶ 11, fn. 1. {¶ 6} Halderman subsequently filed an App.R. 26(B) application to reopen his direct appeal to raise the sex offender issue.

We granted the application on November 4, 2025. This appeal followed. II. Analysis {¶ 7} Halderman advances three related assignments of error challenging his designation as a sex offender and arguing ineffective assistance of trial counsel and prior appellate counsel.

The assignments of error state: I. The trial court erred by ordering Mr. Halderman to register as a sex offender. II. Mr. Halderman was denied the effective assistance of trial counsel. III. Mr. Halderman was denied the effective assistance of appellate counsel. {¶ 8} With one exception, Halderman notes that Ohio law defines a “sex offender” as a person convicted of “any sexually oriented offense.” Blankenship at ¶ 13, citing R.C.

2950.01(B)(1). The exception provides in part that a sex offender does not include a defendant convicted of a sexually oriented offense if the offense involved “consensual sexual conduct,” the victim “was thirteen years of age or older,” and the defendant “is not more than four years older than the victim.” R.C. 2950.01(B)(2)(b). {¶ 9} Here Halderman argues that he did not qualify as a sex offender because he was not convicted of a sexually oriented offense.

He further asserts that even if his misdemeanor violation of R.C. 2907.04 did qualify as a sexually oriented offense, he still would not qualify as a sex offender because the foregoing exception applied. Halderman argues that his trial counsel provided ineffective assistance by failing to object to his 4 designation as a sex offender and that his prior appellate counsel provided ineffective assistance by failing to raise the issue on appeal. {¶ 10} Upon review, we find each of Halderman’s arguments to be persuasive.

As relevant here, R.C. 2950.01(A)(2) defines a “sexually oriented offense” to include “[a] violation of section 2907.04 of the Revised Code when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct, the other person did not

consent to the sexual conduct, and the offender previously has not been convicted of or pleaded guilty to a violation of section 2907.02, 2907.03, or 2907.04 of the Revised Code or a violation of former section 2907.12 of the Revised Code.” (Emphasis added.) {¶ 11} The parties agree that Halderman was less than four years older than the victim and that he had no prior relevant convictions.

Therefore, whether his misdemeanor violation of R.C. 2907.04 qualified as a sexually oriented offense depended on the victim’s consent. At sentencing, defense counsel noted that Halderman had been in a relationship with the victim. Counsel added that “[t]his was not a nonconsensual relationship,” and the State did not suggest otherwise. Even now, the State does not claim that Halderman compelled the victim to engage in sexual conduct or that the victim did not agree to participate.

The State argues only that a minor under age 16 is legally incapable of consenting to sexual activity. {¶ 12} In our view, however, R.C. 2950.01(A)(2) necessarily focuses on whether the victim consented as a matter of fact.

Although the victim’s consent did not preclude Halderman’s conviction for unlawful sexual conduct with a minor, it did mean that his misdemeanor violation of R.C. 2907.04 was not a sexually oriented offense. If the State’s position about the 14-year-old victim being incapable of giving consent were correct, the 5 second consideration in R.C. 2950.01(A)(2)—whether the victim “did not consent to the sexual conduct”—would be superfluous.

Every victim of unlawful sexual conduct with a minor is under age 16. If that fact made consent impossible, the consent inquiry in R.C. 2950.02(A)(2) would be meaningless. {¶ 13} We find additional support for our conclusion in R.C. 2950.01(B)(2)(b).

As noted above, it provides that a “sex offender” does not include a defendant convicted of a sexually oriented offense if the offense involved “consensual sexual conduct,” the victim was age 13 or older, and the defendant was “not more than four years older than the victim.” This provision plainly envisions what the State claims is a legal impossibility—a victim under age 16 engaging in “consensual sexual conduct.” {¶ 14} Finally, our own precedent recognizes that consensual sexual conduct may result in a defendant not being classified as a sex offender despite a conviction under R.C.

2907.04. See, e.g., *State v. Moore*, 2014-Ohio-1123, ¶ 14 (2d Dist.) (noting that the defendant “would not be properly classified as a sex offender at all if he was less than four years older than his victim and the sexual conduct was consensual”); *State v. Grigsby*, 2017- Ohio-8760, ¶ 20-21 (2d Dist.) (citing case law for the proposition that defendants convicted of violating R.C.

2907.04 do not qualify as sex offenders when the age difference is small and the sexual conduct is consensual); see also *State v. Adams*, 2010-Ohio-171 (10th Dist.) ¶ 23 (“Because the record of

defendant's conviction presents no factual or legal basis upon which the Attorney General could determine the victim did not consent, defendant's conviction, a first-degree misdemeanor unlawful sexual conduct, in violation of R.C.

2907.04, does not qualify as a sexually oriented offense under R.C. 2950.01(A)(2), and [the] trial court correctly concluded the Attorney General could not properly classify defendant as a Tier I sex offender under R.C. 2950.01(E)(1)(b).”). 6 {¶ 15} Here we see no evidentiary basis on which to conclude that Halderman's sexual conduct with the victim was non-consensual.

He asserted below that he and the victim had been in a consensual relationship, and the State did not claim otherwise. On appeal, the State argues only that the victim lacked the legal capacity to give valid consent. It does not suggest that she was an unwilling participant.

Under these circumstances, we hold that the trial court erred in designating Halderman as a sex offender with a concomitant registration requirement. {¶ 16} Considering the foregoing analysis, it follows that Halderman's trial counsel provided ineffective assistance by failing to challenge his designation as a sex offender and that prior appellate counsel provided ineffective assistance by failing to raise the issue.

In this reopened appeal, our primary focus is on the performance of prior appellate counsel. Halderman “must establish not only that the direct appeal was meritorious but also that the appeal failed because of the ineffective assistance of appellate counsel.” *State v. Clark*, 2025-Ohio-4410, ¶ 19. Based on the reasoning set forth above, we find that he has satisfied both requirements. {¶ 17} Halderman had a meritorious argument to raise on direct appeal regarding the trial court's erroneous determination that he qualified as a sex offender.

His direct appeal failed, however, because his prior appellate counsel neglected to make the argument. Prior appellate counsel provided deficient representation by not discovering this winning issue and not pursuing it on appeal. Halderman was prejudiced because his sex offender designation would have been reversed in his prior appeal if the issue had been raised.

Therefore, he has demonstrated ineffective assistance of appellate counsel under the familiar two-part test in *Strickland v. Washington*, 466 U.S. 668 (1984). Halderman's three related assignments of error are sustained. 7 III. Conclusion {¶ 18} In accordance with App.R. 26(B)(9), the prior judgment of this court affirming the trial court's judgment is vacated.

Based on the reasoning set forth above, the trial court's judgment is reversed in part and affirmed in part. The judgment is reversed insofar as the trial court's designation of Halderman as a sex offender, and the case is remanded for the trial court to vacate that designation.

In all other respects, the trial court's judgment is affirmed. EPLEY, J., and HANSEMAN, J., concur. 8

