

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

JEFFREY BALK, :
 : C.A. No. K15M-02-009 WLW
 Petitioner, :
 :
 v. :
 :
 STATE OF DELAWARE, :
 :
 Respondent. :

Submitted: February 27, 2015
Decided: April 22, 2015

ORDER

Upon a Petition for Relief from
Designation as Sex Offender.
Denied.

John R. Garey, Esquire, Dover, Delaware; attorney for Petitioner.

Kathleen A. Dickerson, Esquire, Department of Justice, Dover, Delaware; attorney
for the State of Delaware.

WITHAM, R.J.

Before the Court is a Petition for Relief from Designation as Sex Offender. Oral argument was heard and below is the Court's decision.

1. Jeffrey Balk (hereinafter "Petitioner") was placed on the sex offender registry from a conviction in 1988 for Sodomy and Deviant Sexual Assault in the State of Missouri. It was there that he was incarcerated. Petitioner moved to Delaware, and, according to Petitioner, in 2009 was declared a Tier II Sex Offender by the Honorable T. Henley Graves. The Petitioner raises the fact that he is an upstanding member of the community, that his guilty plea was made twenty-seven (27) years ago, and that he does not pose a threat to the public as reasons for removing him from Tier II designation.

2. The State of Missouri's Complaint states that Petitioner "...committed the Class B felony of sodomy, punishable upon conviction under Section 558.011.1(2) R.S. M.O., in that, between Sunday, May 1, 1983 and Saturday, September 2, 1983, in Clayton, in the County of St. Louis, State of Missouri, the Defendant had deviate sexual intercourse with..." and goes on to name three separate individuals, all approximately the age of fourteen (14), while Petitioner was over eighteen (18) years of age.

3. 11 *Del.C.* § 4121(e)(2)(b) holds: "Any sex offender designated to Risk Assessment Tier II may petition the Superior Court for redesignation to Risk Assessment Tier I if the victim was not a child under eighteen (18) years of age and ten (10) years have elapsed from the last day of any Level IV or V sentence imposed at the time of the original conviction, or from the date of sentencing if no Level IV

Jeffrey Balk v. State of Delaware
C.A. No. K15M-02-009 WLW
April 22, 2015

or V sentence was imposed, and the offender has successfully completed an appropriate sex offender treatment program certified by the State and has not been convicted of any crime (other than a motor vehicle offense) during such time.”

4. The parties have provided the Court with proof that Petitioner’s victims were under eighteen years of age at the time of his offense. As the age of the victim is but one of three requirements to be satisfied in order for Petitioner to be eligible for a redesignation, the question of completion of a sentencing program is moot.¹

5. As Petitioner’s victims had not yet reached the age of eighteen, as mandated by 11 *Del. C.* § 4121(e)(2)(b), Petitioner is not eligible for a redesignation. For this reason, the motion is **denied**.

IT IS SO ORDERED.

/s/ William L. Witham, Jr. _____
Resident Judge

WLW/dmh

¹ Petitioner’s criminal acts are well over twenty (20) years old, thereby complying with the requirement that ten (10) years must have elapsed.