

ORIGINAL

IN THE SUPREME COURT OF OHIO  
2013

STATE OF OHIO,

Case No. **13-0870**

Plaintiff-Appellant,

On Appeal from the  
Franklin County Court  
of Appeals, Tenth  
Appellate District

-vs-

SHARLENE AGUIRRE,

Court of Appeals  
Case No. 12AP-415

Defendant-Appellee

**NOTICE OF CERTIFIED CONFLICT  
OF PLAINTIFF-APPELLANT STATE OF OHIO**

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(Counsel of Record)  
Counsel for Defendant-Appellee

**FILED**  
MAY 31 2013  
CLERK OF COURT  
SUPREME COURT OF OHIO

**NOTICE OF CERTIFIED CONFLICT  
OF PLAINTIFF-APPELLANT STATE OF OHIO**

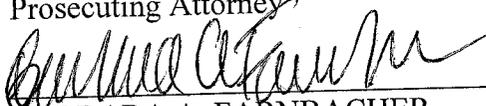
Plaintiff-appellant, the State of Ohio, hereby gives notice that, on March 8, 2012, the Franklin County Court of Appeals, Tenth Appellate District, certified a conflict in *State v. Aguirre*, 12AP-415 on the following question of law pursuant to its authority under Section 3(B)(4), Article IV, of the Ohio Constitution:

Whether an offender's record of conviction may be sealed when the offender still owes court-ordered restitution to a third-party insurance company.

Attached are the Tenth District journal entry certifying the conflict and the Tenth District decisions. Also attached is the conflicting case in *State v. McKenney*, 8th Dist. Nos. 79033, 2001 WL 581493 (May 31, 2001), in which the Eighth District Court of Appeals, unlike the Tenth District, determined that the defendant's agreement to pay a civil judgment to the victim's insurer was not full payment of the court-ordered restitution to constitute a final discharge under R.C. 2953.32.

Respectfully submitted,

RON O'BRIEN 0017245  
Prosecuting Attorney



BARBARA A. FARNBACHER  
0036862

(Counsel of Record)  
Assistant Prosecuting Attorney

Counsel for Plaintiff-Appellant

## CERTIFICATE OF SERVICE

This is to certify that, pursuant to S.Ct.Prac.R. 3.11(A)(1)(a) and (A)(3), a copy of the foregoing was sent by regular U.S. Mail on this 31st day of May, 2013, to JASON MACKE, Assistant State Public Defender, at Ohio Public Defender, 250 East Broad Street, Suite 1400, Columbus, Ohio 43215; Counsel for Defendant-Appellee.

  
BARBARA A. FARNBACHER  
Assistant Prosecuting Attorney

IN THE COURT OF APPEALS OF OHIO  
TENTH APPELLATE DISTRICT

State of Ohio, :  
Plaintiff-Appellant, :  
v. : No. 12AP-415  
Sharlene Aguirre, : (12EP01-26)  
Defendant-Appellee. : (REGULAR CALENDAR)

JOURNAL ENTRY

For the reasons stated in the memorandum decision of this court rendered herein on May 2, 2013, it is the order of this court that the motion to certify the judgment of this court as being in conflict with the judgments of other Courts of Appeals is sustained, and, pursuant to the Ohio Constitution, Article IV, Section 3(B)(4), the record of this case is certified to the Supreme Court of Ohio for review and final determination upon the following issue in conflict:

Whether an offender's record of conviction may be sealed when the offender still owes court-ordered restitution to a third-party insurance company.

McCORMAC, BRYANT and TYACK, JJ.

*John W. McCormac*

McCORMAC, J., retired, formerly of the Tenth Appellate District, assigned to active duty under the authority of Ohio Constitution, Article IV, Section 6(C).

Court Disposition

Case Number: 12AP000415

Case Style: STATE OF OHIO -VS- SHARLENE K AGUIRRE

Motion Tie Off Information:

1. Motion CMS Document Id: 12AP0004152013-03-0899980000

Document Title: 03-08-2013-MOTION

Disposition: 3201

IN THE COURT OF APPEALS OF OHIO  
TENTH APPELLATE DISTRICT

State of Ohio, :  
 :  
 Plaintiff-Appellant, :  
 :  
 v. : No. 12AP-415  
 : (12EP01-26)  
 Sharlene Aguirre, :  
 : (REGULAR CALENDAR)  
 Defendant-Appellee. :

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MEMORANDUM DECISION

Rendered on May 2, 2013

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*Ron O'Brien*, Prosecuting Attorney, and *Barbara A. Farnbacher*, for appellant.

*Timothy Young*, Ohio Public Defender, and *Jason A. Macke*, for appellee.

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ON MOTION TO CERTIFY A CONFLICT

McCORMAC, J.

{¶ 1} Pursuant to App.R. 25, plaintiff-appellant, State of Ohio, moves this court for an order certifying a conflict between our decision in *State v. Aguirre*, 10th Dist. No. 12AP-415, 2013-Ohio-768, and the decisions rendered by the Eighth District Court of Appeals in *State v. Wainwright*, 8th Dist. No. 60491 (Apr. 25, 1991), *State v. Wainwright*, 75 Ohio App.3d 793 (8th Dist.1991), *State v. Pettis*, 133 Ohio App.3d 618, 622 (8th Dist.1999), and *State v. McKenney*, 8th Dist. No. 79033 (May 31, 2001). Defendant-appellee, Sharlene Aguirre, has filed a response to the state's motion.

{¶ 2} Ohio Constitution, Article IV, Section 3(B)(4), governs motions seeking an order to certify a conflict and provides as follows:

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Whenever the judges of a court of appeals find that a judgment upon which they have agreed is in conflict with the judgment pronounced upon the same question by any other court of appeals of the state, the judges shall certify the record of the case to the supreme court for review and final determination.

{¶ 3} In *Whitelock v. Gilbane Bldg. Co.*, 66 Ohio St.3d 594, 596 (1993), the Supreme Court of Ohio held that "[p]ursuant to Section 3(B)(4), Article IV of the Ohio Constitution and S.Ct.Prac.R. III, there must be an actual conflict between appellate judicial districts on a rule of law before certification of a case to the Supreme Court for review and final determination is proper." *Id.* at paragraph one of the syllabus. The court articulated the standard to be applied by an appellate court in deciding a motion to certify:

[A]t least three conditions must be met before and during the certification of a case to this court pursuant to Section 3(B)(4), Article IV of the Ohio Constitution. First, the certifying court must find that its judgment is in conflict with the judgment of a court of appeals of another district and the asserted conflict *must* be "upon the same question." Second, the alleged conflict must be on a rule of law—not facts. Third, the journal entry or opinion of the certifying court must clearly set forth that rule of law which the certifying court contends is in conflict with the judgment on the same question by other district courts of appeals.

(Emphasis sic.) *Id.* at 596.

{¶ 4} The background of this case is fully set forth in this court's decision, and we will not reiterate it here. This court held that the trial court did not abuse its discretion in granting appellee's application to seal the record of her conviction, despite her admitted failure to pay all of the court-ordered restitution to the third-party insurers. In so holding, we specifically noted that insurance companies are entitled to use mandated collection procedures. *Aguirre* at ¶ 18. We thus implicitly distinguished this case from others where court-ordered restitution was owed to entities other than insurance companies.

{¶ 5} Our holding in *Aguirre* thus conflicts with only the *McKenney* case from the Eighth District, as that is the only case that expressly involved court-ordered restitution to

an insurance company. As the other cases cited by the state appear to involve court-ordered restitution to entities other than third-party insurance companies, they are factually distinguishable and thus were not decided "upon the same question."

{¶ 6} Because the judgment rendered in *Aguirre* is in conflict with the judgment of the Eighth District Court of Appeals in *McKenney*, we hereby grant the state's motion and certify the record of this case to the Supreme Court of Ohio, pursuant to Ohio Constitution, Article IV, Section 3(B)(4), for review and final determination upon the following issue:

Whether an offender's record of conviction may be sealed when the offender still owes court-ordered restitution to a third-party insurance company.

*Motion to certify a conflict granted.*

BRYANT and TYACK, JJ., concur.

McCORMAC, J., retired, formerly of the Tenth Appellate District, assigned to active duty under the authority of Ohio Constitution, Article IV, Section 6(C).

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IN THE COURT OF APPEALS OF OHIO  
TENTH APPELLATE DISTRICT

State of Ohio,

Plaintiff-Appellant,

v.

Sharlene K. Aguirre,

Defendant-Appellee.

:  
:  
:  
:  
:

No. 12AP-415  
(C.P.C. No. 12EP-01-26)

(REGULAR CALENDAR)

JUDGMENT ENTRY

For the reasons stated in the decision of this court rendered herein on March 5, 2013, appellant's assignment of error is overruled, and it is the judgment and order of this court that the judgment of the Franklin County Court of Common Pleas is affirmed. Costs assessed against appellant.

McCORMAC, J., BRYANT and TYACK, JJ.

*John W. McCormac*

\_\_\_\_\_  
Judge John W. McCormac, retired, of the Tenth Appellate District, assigned to active duty under authority of Ohio Constitution, Article IV, Section 6(C).

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IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio, :  
 :  
 Plaintiff-Appellant, :  
 :  
 v. : No. 12AP-415  
 : (C.P.C. No. 12EP-01-26)  
 :  
 Sharlene K. Aguirre, : (REGULAR CALENDAR)  
 :  
 Defendant-Appellee. :

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D E C I S I O N

Rendered on March 5, 2013

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*Ron O'Brien*, Prosecuting Attorney, *Barbara A. Farnbacher*  
and *Branden J. Albaugh*, for appellant.

*Timothy Young*, Ohio Public Defender, and *Jason A. Macke*,  
for appellee.

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APPEAL from the Franklin County Court of Common Pleas

McCORMAC, J.

{¶ 1} The State of Ohio, plaintiff-appellant, is appealing the judgment of the Franklin County Court of Common Pleas sealing the record of defendant's conviction in criminal case No. 01CR-7203 (commonly known as expungement of her record).

{¶ 2} Appellant's assignment of error and issue presented for review reads as follows:

THE TRIAL COURT ERRED WHEN IT GRANTED THE  
DEFENDANT'S PREMATURELY FILED APPLICATION  
FOR EXPUNGEMENT.

{¶ 3} On May 22, 2002, defendant-appellee entered a guilty plea to a single count of theft, a fourth-degree felony. The parties jointly recommended a term of community control. On July 9, 2002, the trial court imposed a five-year period of community control including, among other conditions, the provision that appellee pay \$2,000 in restitution

to Economy Enterprises and the balance of \$32,562.47 restitution to two third-party insurance companies through the probation department and to pay court costs.

{¶ 4} On January 12, 2012, appellee filed an application for expungement of the conviction. On February 17, 2012, appellant filed an objection to the application. The basis of the appellant's objection was that appellee had not fully satisfied her obligation to pay restitution and court costs and that her application was therefore premature. Appellee acknowledged that she had not completed payment of the court-ordered restitution to the two third-party insurance companies.

{¶ 5} The trial court held a hearing and found that appellee had completed payment of all of the conditions of the community control order, but that she had not completed payment of the third-party ordered restitution, finding that the balance remaining for that restitution was \$14,152 out of the original amount of \$32,562.47. The trial court found that appellee's application for expungement should be granted since more than three years had passed since appellee had completed all of the provisions of community control. The trial court found that the third-party payments ordered to the insurance companies should not be a bar to expungement since the court had completely released appellee from any obligations under the community control provisions other than completion of the two third-party restitution orders made to liability insurance companies.

{¶ 6} Appellant argues that all obligations must be taken care of before there is an eligibility to expunge the record, and that, even though appellee had completed all obligations owed to the state, she still owed money to the third-party insurers who obtained their claims by subrogation. Appellant argues that appellee must pay off the balance of the \$32,561 although appellee had commendably paid about 60 percent or \$18,000 of that amount, despite that probably, at least in part, due to her criminal record and inability to secure employment that would be as remunerative. To summarize, appellant asserts that appellee must pay off the balance, wait at least three more years without having problems before filing her motion for expungement.

{¶ 7} The sentencing court, as part of the community control sanctions, ordered a \$2,000 payment to Economy Enterprises (which was quickly paid, for direct expenses). The court ordered the balance of the \$32,562.47 to be paid as soon as possible to two third-third party insurance companies.

{¶ 8} The court considered appellant's present and future ability to pay a fine and/or financial sanctions and ordered that appellee pay only court costs.

{¶ 9} Community control sanctions provide that "[f]ulfilling the conditions of a community control sanction does not relieve the offender of a duty to make restitution under section 2929.28 of the Revised Code." R.C. 2929.25(E).

{¶ 10} When we examine R.C. 2929.28, it refers to misdemeanors, but obviously is intended to apply to anyone, including appellee, who has completed community control with restitution obligations still owed. The amounts due have been determined, the entity entitled to restitution obtains a judgment and is entitled to the entire range of options for execution of the judgment. The entity seeking restitution may be, among others, the victim or private provider. Some public assistance is offered at a fee for those who may need it (at the cost of the judgment debtor).

{¶ 11} R.C. 2929.28 is silent about expungement. When the appellee has performed all conditions of community control and is released from all that control but still owes restitution, may expungement apply? That is the issue we must decide.

{¶ 12} The statutory provisions governing conviction expungement are remedial in nature and must be liberally construed to promote those purposes. *State v. Boddie*, 170 Ohio App.3d 590, 2007-Ohio-626 (8th Dist). As stated in *State v. Wilson*, 10th Dist. No. 06AP-1060, 2007-Ohio-811, an appellate court reviews a trial court's decision on an application to seal a record for an abuse of discretion.

{¶ 13} The standard to be applied in an expungement case is: "[t]he court must weigh the interest of the public's need to know as against the individual's interest in having the record sealed, and must liberally construe the statute so as to promote the legislative purpose of allowing expungements." *State v. Hilbert*, 145 Ohio App.3d 824, 827 (8th Dist.2001). It is noted that the original expungement provisions have been amended to provide more liberal relief for expungement: i.e., changing the original position of only one misdemeanor, with certain exceptions, to two misdemeanors, and allowing expungement of certain types of felony convictions, one of which is the fourth-degree felony conviction of appellee.

{¶ 14} The trial court informed appellee at the time he granted the application for expungement that she remained in debt to these companies and that collection by them would be a matter between her and the insurance companies and that it was something

that should be paid. Essentially, the same remedies the creditor now has for collection of unpaid restitution was available under R.C. 2929.28.

{¶ 15} Appellant argues that the trial court, in essence, amended the community control provision concerning restitution by excepting a restitution provision from the requirement that appellee comply with all provisions of the community control doctrine.

{¶ 16} We do not believe that to be the case. We believe that the trial court interpreted the community control provision as it now exists to place victims and private parties into a state judgment collection agency if they need or choose this remedy. They can also use private remedies if they choose.

{¶ 17} We believe that denying expungement is a continued punishment, with no benefit to a victim or private payer who is owed restitution. The entity who is owed has the best of both worlds. The judgment debtor can be more likely to obtain a better job and more likely to have the means to pay the restitution, and the state will provide collection help.

{¶ 18} The Supreme Court of Ohio, in *Barker v. State*, 62 Ohio St.2d 35 (1980), determined R.C. 2953.31 et seq. expungement statutes to be remedial in nature and subject to liberal construction as mandated by R.C. 1.11. The liberal trend has increased since that time, apparently in a manner that best serves the needs of society. We would also note that insurance companies are also entitled to use the mandated collection procedures.

{¶ 19} Appellant's assignment of error is overruled, and the judgment of the Franklin County Court of Common Pleas is affirmed.

*Judgment affirmed.*

BRYANT and TYACK, JJ., concur.

McCORMAC, J., retired, of the Tenth Appellate District,  
assigned to active duty under authority of Ohio Constitution,  
Article IV, Section 6(C).

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Not Reported in N.E.2d, 2001 WL 587493 (Ohio App. 8 Dist.)  
 (Cite as: 2001 WL 587493 (Ohio App. 8 Dist.))

**H**

Only the Westlaw citation is currently available.

CHECK OHIO SUPREME COURT RULES FOR  
 REPORTING OF OPINIONS AND WEIGHT OF  
 LEGAL AUTHORITY.

Court of Appeals of Ohio, Eighth District, Cuyahoga  
 County.  
 STATE of Ohio, Plaintiff-Appellant,  
 v.  
 Penny McKENNEY, Defendant-Appellee.

No. 79033.  
 May 31, 2001.

Criminal appeal from Common Pleas Court, Case  
 No. CR-220467.  
William D. Mason, Cuyahoga County Prosecutor,  
 and Lisa Reitz Williamson, Ass't, Cleveland, OH, for  
 Plaintiff-Appellant.

Robert A. Dixon, Esq., Cleveland, OH, for Defen-  
 dant-Appellee.

JOURNAL ENTRY AND OPINION  
COONEY.

\*1 This cause came to be heard upon the accel-  
 erated calendar pursuant to App.R. 11.1 and Loc.R.  
11.1, the record from the lower court, and the parties'  
 briefs.

Plaintiff-appellant State of Ohio appeals the trial  
 court's decision granting defendant-appellee's motion  
 for order to seal records of conviction and arrest re-  
 cord. For the reasons below, we reverse.

On February 17, 1988, defendant-appellee Penny  
 McKenney pleaded guilty to one count of grand theft

in violation of R.C. 2913.02. The court sentenced  
 McKenney to a suspended eighteen-month prison  
 term and ordered her to serve three years probation.  
 The court also ordered McKenney to pay restitution.

Subsequent thereto, the victim, Tedrich Furniture  
 Company, received payment for the full amount of  
 the stolen items from its insurer, Motorist Mutual  
 Insurance Company. McKenney then agreed to a  
 civil judgment against her in favor of the insurer.

On October 15, 1999, after her three-year term of  
 probation ended, McKenney filed a motion pursuant  
 to R.C. 2953.32 asking the trial court to seal the re-  
 cord of her conviction. The trial court, noting that  
 McKenney has permitted the victim's insurer to ob-  
 tain a civil judgment against her, determined that  
 McKenney made complete restitution and granted the  
 motion to seal the record. This appeal followed.

The State's sole assignment of error argues that:

I. A TRIAL COURT ERRS IN ORDERING  
 CRIMINAL RECORDS SEALED PURSUANT TO  
R.C. 2953.32 ET SEQ. WHEN THE DEFENDANT-  
 APPLICANT IS NOT FINALLY DISCHARGED  
 UNDER R.C. 2953.32(A)(1) FOR THE REASON  
 THAT SHE HAS NOT PAID IN FULL RESTITU-  
 TION AS ORDERED BY THE TRIAL COURT AS  
 A CONDITION OF HER PROBATION.

Relying on our decisions in State v. Wainwright  
 (1991), 75 Ohio App.3d 793, 600 N.E.2d 831, and  
State v. Pettis (May 6, 1999), Cuyahoga App. No.  
 74989, unreported, the State argues that because  
 McKenney failed to pay complete restitution as re-  
 quired by her sentence, she is not entitled to have her  
 record expunged. McKenney argues that because the  
 victim, Tedrich Furniture Company, has been made

Not Reported in N.E.2d, 2001 WL 587493 (Ohio App. 8 Dist.)  
(Cite as: 2001 WL 587493 (Ohio App. 8 Dist.))

whole by its insurer, her obligation to pay restitution has been satisfied. McKenney further argues that said obligation has been satisfied because the insurer has a civil money judgment against her towards which she has been making monthly payments and has paid half of the total amount owed.

R.C. 2953.32 provides in part that:

(A)(1) \* \* \* [A] first offender may apply to the sentencing court \* \* \* for the sealing of the conviction record. Application may be made at the expiration of three years after the offender's final discharge if convicted of a felony \* \* \*.

\* \* \*

\*2 (C)(2) If the court determines \* \* \* that the applicant is a first offender \* \* \*, that no criminal proceeding is pending against the applicant, and that the interests of the applicant in having the records pertaining to the applicant's conviction \* \* \* sealed are not outweighed by any legitimate governmental needs to maintain those records, and that the rehabilitation of an applicant who is a first offender \* \* \* has been attained to the satisfaction of the court, the court \* \* \*, shall order all official records pertaining to the case sealed \* \* \*.

In order for R.C. 2953.32 to apply, McKenney has to have been discharged for at least three years. However, an offender is not finally discharged until she has served the sentence imposed by the court. See Willowick v. Langford (1984), 15 Ohio App.3d 33, 34, 472 N.E.2d 387; Pettis.

Restitution, as a condition of an offender's probation, is a part of the offender's sentence. See, R.C. 2951.02(C). McKenney has not fully paid restitution as ordered by the terms of her probation and therefore has failed to meet a condition of her sentence. See, Wainright, supra. Thus, the court erred in sealing the record of McKenney's conviction because she had not

been finally discharged as required by R.C. 2953.32.

The factual situation addressed in Pettis is nearly identical to the case at hand. The trial court sentenced Pettis to probation and ordered her to pay restitution. Pettis signed a cognovit note for the amount of restitution at the time she was sentenced. When Pettis applied to have the record of her conviction sealed, the trial court granted Pettis' motion to seal the record, finding that by signing the cognovit note, she had fully discharged her restitution obligations. We reversed, finding that Pettis had not been finally discharged until she paid full restitution, and that the trial court erred by granting the motion to seal the record of Pettis' conviction. Pettis; see also, Wainwright.

Here, in making its decision, the trial court attempted to distinguish the matter at hand from Pettis. The trial court reasoned that the promissory note that was signed [in Pettis] is a lot less enforceable by a holder than the judgment that has been entered into by [McKenney]. The court further noted that McKenney has been religiously making payments to the insurer and that she has every incentive to continue to do so because if she does not, the insurer can initiate collection procedures against her, including levying her property and bank accounts in order to satisfy the judgment.

However, this reasoning is flawed. There is little difference between holding a cognovit note and having a money judgment against a party. A cognovit note is a powerful promissory note which contains a warrant of attorney to confess by which the maker waives his right to a court trial and permits judgment to be taken against him, without notice, upon the maker's failure to make the requisite payments. See, R.C. 2323.13. Other than the extra step of filing a complaint required to obtain the judgment on the cognovit note, there simply is nothing to support the trial court's opinion that the Pettis cognovit note is a lot less enforceable than the judgment held against

Not Reported in N.E.2d, 2001 WL 587493 (Ohio App. 8 Dist.)  
(Cite as: 2001 WL 587493 (Ohio App. 8 Dist.))

McKenney. Further, there is no indication that the holder of the cognovit note in Pettis would be precluded, upon obtaining judgment, from seeking the collection remedies which the trial court pointed out are currently available to the insurer in the instant case. The fact is that, like a promissory note, a civil judgment cannot be considered "payment in full" sufficient to constitute a final discharge under R.C. 2953.32. See, Pettis. Although a civil money judgment clearly obligates the judgment-debtor to satisfy the judgment, until the judgment-creditor actually has payment in hand, the debt has not been satisfied, nor can the judgment be considered to be discharged. See *Id.*

Further, McKenney's argument that the purpose of the restitution order has been met because the victim has already been made whole, is misplaced. It suggests that the purpose of restitution is to benefit the victim. However, restitution is an integral part of an offender's sentence, not only as punishment, but for rehabilitation as well. *Id. As stated in Kelly v. Robinson* (1986), 479 U.S. 36, 107 S.Ct. 353, 93 L.Ed.2d 216:

\*3 The criminal justice system is not operated primarily for the benefit of victims, but for the benefit of society as a whole. Thus, it is concerned not only with punishing the offender, but also with rehabilitating him. Although restitution does resemble a judgment for the benefit of the victim, the context in which it is imposed undermines that conclusion. \* \* \* Unlike an obligation which arises out of contractual, statutory or common law duty, here the obligation is rooted in the traditional responsibility of a state to protect its citizens by enforcing its criminal statutes and to rehabilitate an offender by imposing a criminal sanction intended for that purpose. [citations omitted.]

McKenney has not completed the terms of her sentence, and therefore has not been finally discharged for purposes of having the record of her con-

viction sealed under R.C. 2953.32. Thus, this assignment of error is well-taken, and the decision of the trial court is reversed.

This cause is reversed and remanded to the lower court for further proceedings consistent with this opinion.

It is, therefore, considered that said appellant recover of said appellee its costs herein.

It is ordered that a special mandate be sent to the Cuyahoga County Court of Common Pleas to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

KARPINSKI, A.J., and DYKE, J., concur.

N.B. This entry is an announcement of the court's decision. See App.R. 22(B), 22(D) and 26(A); Loc.App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(E) unless a motion for reconsideration with supporting brief, per App.R. 26(A), is filed within ten (10) days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(E). See, also, S.Ct.Prac.R. II, Section 2(A)(1).

Ohio App. 8 Dist., 2001.

State v. McKenney

Not Reported in N.E.2d, 2001 WL 587493 (Ohio App. 8 Dist.)

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