

ORIGINAL

IN THE SUPREME COURT OF OHIO
2013

STATE OF OHIO,

Plaintiff-Appellant,

-vs-

SHARLENE AGUIRRE,

Defendant-Appellee.

Case No. 13-0876

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

Court of Appeals
Case No. 12AP-415

MEMORANDUM OF PLAINTIFF-APPELLANT IN SUPPORT OF
JURISDICTION

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COUNSEL FOR DEFENDANT-APPELLEE

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MAY 31 2013
CLERK OF COURT
SUPREME COURT OF OHIO

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EXPLANATION OF WHY THIS COURT SHOULD ACCEPT JURISDICTION

The instant case presents questions of such constitutional substance and of such great public interest, involving a criminal defendant's statutory eligibility to seal a record of conviction, to warrant further review by this Court. Here, the defendant pled guilty to a felony theft offense, and the parties jointly recommended that she pay restitution to the victim of her theft and to its insurers. Notwithstanding her admitted failure to pay the entire restitution amount imposed, the defendant sought to seal the record of her conviction. The lower courts erroneously permitted the defendant to seal the record of her conviction when she had not fulfilled all of the conditions of the sentence imposed and had not been finally discharged from her conviction. Here, the appellate court applied the wrong standard of review, erroneously relied upon the identities of the recipients of the restitution order, and contravened well-established precedent when it affirmed the trial court. *See State v. Aguirre*, 10th Dist. No. 12AP-415, 2013-Ohio-768, ¶¶12, 14-18. Certainly the identities of the recipients of the original restitution order were not relevant to resolving the critical issue of whether the defendant had received a final discharge from her conviction and was therefore eligible for sealing, under R.C. 2953.32(A)(1).

The State and citizens of Ohio have an interest in ensuring that felony convictions are not erroneously sealed when a criminal defendant is not eligible based on her admitted failure to fulfill all of the conditions of the sentence imposed, and this Court should accept jurisdiction over this case to ensure that R.C. 2953.32(A)(1) is correctly applied. It is therefore respectfully submitted that jurisdiction over this case should be accepted.

STATEMENT OF CASE AND FACTS

On May 22, 2002, the defendant entered a guilty plea to a single count of theft, a fourth degree felony. The parties jointly recommended a term of community control and \$2000 restitution to Economy Enterprises and further restitution owed to Westfield Insurance Company

and Harleyville Insurance. The trial court imposed a five-year period of community control, with a condition that the defendant pay \$2000.00 restitution to Economy Enterprises and the balance of \$32,562.47 in restitution through the probation department and pay court costs.

On January 12, 2012, defendant filed an application to seal the record of this conviction. On February 17, 2012, the State filed an objection to the application. The basis for the State's objection was that the defendant/applicant had not satisfied her obligation to pay restitution and court costs, and her application was therefore premature. The matter was originally scheduled for a hearing on April 5, 2012. The defendant/applicant acknowledged that she had not completed payment of the court-ordered restitution. The trial court nonetheless granted the defendant/applicant's application to seal the record of her conviction.

The State filed a timely appeal to the Tenth District Court of Appeals. On March 5, 2013, the court of appeals issued a decision affirming the trial court's decision granting the defendant/applicant's application. In overruling the State's assigned error, the appellate court stated that the issue it was deciding was whether a defendant who had completed community control but still owed restitution could expunge her conviction. *State v. Aguirre*, 10th Dist. No. 12AP-415, 2013-Ohio-768, ¶¶11, 19.

On March 8, 2013, the State filed an application for en banc consideration and review by the en banc court and a motion to certify a conflict. By opinion rendered on May 2, 2013, and journalized on May 7, 2013, the court of appeals certified a conflict to this Court based on a conflict between the decision in this case and the Eighth District Court of Appeals' decision in *State v. McKenney*, 8th Dist. No. 79033, 2001 WL 587493 (May 31, 2001). By decision rendered on May 16, 2013, two judges of the court of appeals dismissed the State's en banc application as being moot. The State now brings this appeal seeking a granting of jurisdiction.

Proposition of Law No. One: A defendant/applicant who still owes restitution has not been finally discharged and is not eligible to seal her conviction, under R.C. 2953.32(A)(1).

Under R.C. 2953.32(A)(1), an applicant may apply to have a conviction sealed only *after* “the expiration of three years after the offender’s final discharge if convicted of a felony.” A final discharge includes showing that restitution has been paid-in-full. *State v. Wainwright*, 75 Ohio App.3d 793, 600 N.E.2d 834 (8th Dist. 1991); *State v. McKenney*, 8th Dist. No. 79033, 2001 WL 587493, *2 (May 31, 2001) (defendant not eligible for expungement until discharged for at least three years); *State v. Wainwright*, 8th Dist. No. 60491, 1991 WL 64303 (April 25, 1991); *State v. Braun*, 8th Dist. No. 46082, 1983 WL 5542, *1 (July 7, 1983); *In re White*, 165 Ohio App.3d 288, 2006-Ohio-233, ¶7, 846 N.E.2d 93 (10th Dist.) (citations omitted); *State v. Jordan*, 10th Dist. No 07AP-584, 2007-Ohio-6383; *In re Hopson*, 10th Dist. No. 12AP-67, 2012-Ohio-4509, ¶5. Indeed, the Tenth District Court of Appeals recently stated that a “[f]inal discharge under the statute does not occur until restitution has been satisfied.” *State v. Black*, 10th Dist. No. 12AP-375, 2012-Ohio-6029, ¶6. When an applicant has not made full restitution before filing an application to seal the record of a conviction, she has not received a final discharge under the statute and is not eligible to have a record sealed. *Id.* at ¶7.

The failure to pursue collection of restitution does not forgive payment of the restitution order with regard to sealing. “Whether the state chooses to collect the debt or not, until such time as the restitution order is paid in full, applicant cannot be considered to have completed the terms of her sentence, and hence cannot be considered ‘finally discharged’ for the purposes of having the record of her conviction sealed.” *State v. Pettis*, 133 Ohio App.3d 618, 622, 729 N.E.2d 449 (8th Dist. 1999).

“R.C. 2953.32(A) precludes a final discharge from conviction until defendant’s sentence, including the payment of any fine imposed has been completed for one year. The intent of the

statute is clear; a final discharge from conviction means a release from all obligations imposed and not just a release from confinement.” *Braun*, 1983 WL 5542, *1. See also *State v. Wagner*, 12th Dist. No. CA93-01-003, 1993 WL 192915 (June 7, 1993) (when sentence is reversed on appeal, final discharge under R.C. 2953.32 occurs upon resentencing). Accordingly, a defendant/applicant is not finally discharged until all of the sentencing conditions imposed by the court are fulfilled. *Wainwright*, 75 Ohio App.3d at 795, citing *Braun*, supra.

Here, when the defendant/applicant filed her application, she had not been finally discharged from her conviction, because she still owed court-ordered restitution. See, e.g., *White*, 165 Ohio App.3d 288, 290, ¶7; *Wainwright*, 75 Ohio App.3d at 795. She was therefore not eligible to seal the record of her conviction, because she had not received a final discharge, and the trial court erred when it granted her application to seal her conviction.

The appellate court’s discussion of and apparent reliance upon the fact that the trial court originally ordered restitution to an insurer is irrelevant to the requisite statutory analysis under R.C. 2953.32 for several reasons. First, because expungement is a collateral civil proceeding, *State v. Bissantz*, 30 Ohio St.3d 120, 507 N.E.2d 1117 (1987), the trial court could not modify the restitution order at the expungement hearing. *State v. Sheridan*, 8th Dist. Nos. 74220, 74241, 1998 WL 741917, *1-2 (Oct. 22, 1998) (trial court erred in vacating restitution order *nunc pro tunc*, modifying sentence at hearing on expungement application). “[A]n application to seal a record of conviction is a separate remedy, completely apart from the criminal action, and is sought after the criminal proceedings have concluded.” *State v. LaSalle*, 96 Ohio St.3d 178, 2002-Ohio-4009, 772 N.E.2d 1172. The defendant/applicant’s challenge to the propriety of the court-ordered restitution cannot be challenged in this collateral proceeding, particularly because

the defendant not only agreed to pay the restitution, but also she never filed an appeal challenging either the agreement or the order.

Second, the identity of the recipient of the court-ordered restitution is irrelevant to whether the defendant/applicant has received a final discharge. It simply does not matter that the trial court originally ordered the defendant/applicant to pay restitution to an insurer as part of her community control, in lieu of a prison term, when deciding whether she fulfilled the conditions of the sentence imposed and was finally discharged, under R.C. 2953.32. *Wainwright*, 75 Ohio App.3d at 795, citing *Braun*, supra.

Third, the defendant/applicant agreed to pay restitution to an insurer as part of her plea bargain and admitted that she still owed restitution at the expungement hearing. Her unsupported claim that her discharge from community control constituted a final discharge under R.C. 2953.32 lacked merit both as a matter of fact and as a matter of law, because she admitted that she had not paid all of the restitution and therefore had not fulfilled all of the conditions of the sentence that she agreed to and that was imposed. *See Wainwright*, 75 Ohio App.3d at 795, citing *Braun*, supra.

And fourth, as demonstrated previously, the appellate court's misplaced reliance on this factor contravened both its own prior precedent and several cases from the Eighth Appellate District.

Here, the defendant/applicant filed an application to seal her conviction before she had fulfilled all of the conditions of the sentence imposed. As a result, she had not been finally discharged and was therefore not eligible to seal her conviction. The trial court erred when it granted her application, as did the appellate court when it affirmed the trial court's decision, and that decision must be reversed.

Proposition of Law No. Two: When a party files an application for en banc consideration pursuant to App.R. 26(A)(2), all full-time judges of that Court of Appeals who are not recused or disqualified from the case must participate in determining whether to grant or deny the application. (*McFadden v. Cleveland State Univ.*, 120 Ohio St.3d 54, 2008-Ohio-4914, 896 N.E.2d 672, and App.R. 26(A)(2), applied)

Pursuant to the express language of the rule and *McFadden*, the entire en banc court should have ruled on the application for en banc consideration. This issue has been accepted in *State v. Forrest*, Case Nos. 2012-415/416 and should be accepted here as well.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the within appeal presents questions of such constitutional substance and of such great public interest to warrant further review by this Court. It is respectfully submitted that jurisdiction should be accepted.

Respectfully submitted,

RON O'BRIEN 0017245
Prosecuting Attorney

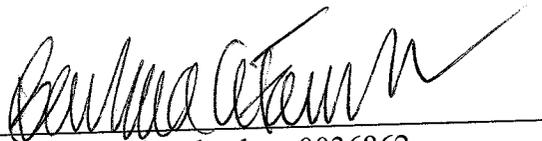
A handwritten signature in black ink, appearing to read "Barbara A. Farnbacher", written over a horizontal line.

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614/525-3555

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 this day, May 31, 2013, to JASON A. MACKE, 250 East Broad Street, Suite 1400, Columbus, Ohio 43215; Counsel for Defendant-Appellee.



Barbara A. Farnbacher 0036862
Assistant Prosecuting Attorney

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).

Franklin County Ohio Court of Appeals Clerk of Courts- 2013 Mar 05 2:03 PM-12AP000415

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. :

D E C I S I O N

Rendered on March 5, 2013

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.

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 these 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).

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

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

JOURNAL ENTRY

For the reasons stated in the memorandum decision of this court rendered herein on May 16, 2013, it is the order of this court that plaintiff's application for en banc consideration is dismissed as moot. Costs assessed to plaintiff.

BRYANT & TYACK, JJ.

By /S/ JUDGE
Judge Peggy Bryant

Franklin County Ohio Court of Appeals Clerk of Courts- 2013 May 21 3:29 PM-12AP000415

Tenth District Court of Appeals

Date: 05-21-2013
Case Title: STATE OF OHIO -VS- SHARLENE K AGUIRRE
Case Number: 12AP000415
Type: JOURNAL ENTRY

So Ordered

Rygg Bryant


/s/ Judge Bryant

Electronically signed on 2013-May-21 page 2 of 2

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

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

MEMORANDUM DECISION

Rendered on May 16, 2013

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

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

ON APPLICATION FOR EN BANC CONSIDERATION

BRYANT, J.

{¶ 1} Pursuant to App.R. 26(A)(2), plaintiff-appellant, State of Ohio, filed an application for en banc consideration of the decision this court rendered in *State v. Aguirre*, 10th Dist. No. 12AP-415, 2013-Ohio-768, in which we concluded the trial court did not abuse its discretion in granting the application of defendant-appellee, Sharlene Aguirre, to seal the record of her conviction despite her admitted failure to pay all of the court-ordered restitution to third-party insurers. The state contends our decision in *Aguirre* conflicts with this court's previous decisions in *In re White*, 165 Ohio App.3d 288, 2006-Ohio-233 (10th Dist.); *State v. Jordan*, 10th Dist. No. 07AP-584, 2007-Ohio-6383; *In re Hopson*, 10th Dist. No. 12AP-67, 2012-Ohio-4509; and *State v. Black*, 10th Dist. No. 12AP-375, 2012-Ohio-6029.

{¶ 2} Initially, none of the cases the state cites involves unpaid restitution ordered to a third-party insurance company. Moreover, on May 2, 2013, this court, pursuant to

Ohio Constitution, Article IV, Section 3(B)(4), certified the following issue to the Supreme Court of Ohio for final review and determination due to a conflict between this court's decision and one from the Eighth District Court of Appeals:

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

Because of the certified issue, the Supreme Court will determine the issue the state seeks to resolve through an en banc review. We, therefore, need not determine whether an intra-district conflict exists, as the state's application for en banc consideration is dismissed as moot.

*Application for en banc consideration
dismissed as moot.*

TYACK, J., concurs.

00124

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

2012 APR 12 PM 1:58
STATE OF OHIO,
Plaintiff
COURTS

SEALING CASE NO. 12EP-26
CRIMINAL CASE NO 01CR-7203
JUDGE REECE

Vs.

Sharlene Aguirre
Defendant,

ENTRY SEALING RECORD OF CONVICTION PURSUANT TO R.C. 2953.32

In accordance with Section 2953.32, Ohio Revised Code, the Court finds that there are no criminal proceedings pending against the applicant, **Sharlene Aguirre**, and that the sealing of the record of the applicant's CONVICTION, in Criminal Case number **01CR-7203** is consistent with the public interest.

It is therefore **ORDERED** that all official records pertaining to the applicant's conviction in Case number **01CR-7203**, be sealed and, except as provided in R.C. 2953.32(F), all index references be deleted. This order does not exempt from use records and work product in this case in any civil litigation arising out of, or related to, the facts in this case, and such records and work product will be available for inspection and use for such purposes if necessary.

With the exceptions noted above, it is **FURTHER ORDERED** that no officer or employee of the State, or political subdivision thereof, except as authorized by Division (D), (E) and (G) of Section 2953.32 of the Ohio Revised Code, shall release, disseminate, or make available for any purpose involving employment, bonding, licensing, or education to any person or to any department agency, or other instrumentality of the State, or any political subdivision thereof, any information or other data concerning the: arrest, complaint, indictment, dismissal, nolle, motion hearings, trial, adjudication or correctional supervision associated with Criminal Case **01CR-7203**.

For purposes of identification, the following information is provided for the arresting agency and any custodians of arrest and adjudication data:

APPLICANT'S FULL NAME: Sharlene Aguirre
ADDRESS: 451 Darbyhurst Rd.
CITY: Columbus STATE: OH ZIP: 43228
SEX: Female RACE: White DATE OF BIRTH: 07/01/1956 SSN: 289-56-2232
CHARGE: Theft(F4)
CONVICTED OF: Theft(F4)

DATE OF ARREST: 12/2001
ARRESTING AGENCY: CPD
MUNICIPAL COURT: THE STATE OF OHIO
OHIO B.C.I. NUMBER: Franklin County, SS
F.B.I.:

MARYELLEN O'SHAUGHNESSY, Clerk
OF THE COURT OF COMMON
PLEAS WITHIN AND FOR
SAID COUNTY.

HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY TAKEN AND COPIED FROM THE ORIGINAL NOW ON FILE IN MY OFFICE WITNESS MY HAND AND SEAL OF SAID COUNTY THIS 12 DAY OF APRIL A.D. 2012
MARYELLEN O'SHAUGHNESSY, Clerk

RON O'BRIEN, Franklin County Prosecutor

By: [Signature] Deputy

5 APR 12