

RENDERED SEPTEMBER 7, 2018; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky
Court of Appeals

NO. 2017-CA-001907-MR

PHILLIP M. BEDFORD

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE A. C. MCKAY CHAUVIN, JUDGE
ACTION NO. 85-CR-000378

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
REVERSING AND REMANDING

** ** * ** * **

BEFORE: ACREE, NICKELL, AND SMALLWOOD, JUDGES.

NICKELL, JUDGE: Phillip M. Bedford, *pro se*, has appealed the October 13, 2017, order of the Jefferson Circuit Court denying his motion for expungement of multiple felony convictions. Upon careful review, we reverse and remand.

In 1985, Bedford pled guilty to eight counts of obtaining drugs by fraud and deception. On December 10, 2007, Bedford received an unconditional pardon from Governor Ernie Fletcher for those felony convictions.

Bedford filed multiple motions for expungement of his felony convictions; however, the application for expungement pertinent to this appeal was filed on May 1, 2017.¹ On October 13, 2017, the circuit court denied Bedford's application for expungement. This appeal followed.

On appeal, Bedford argues the trial court erroneously denied his application for expungement of felony convictions under the mistaken belief it was not authorized by statute. In its brief, the Commonwealth concedes the trial court erred by failing to consider the correct statute. After review, we agree.

In its order denying Bedford's application for expungement the circuit court references KRS² 431.076, titled "Expungement of criminal records for those found not guilty of crimes, for whom charges have been dismissed with prejudice, or against whom charges have not resulted in an indictment." This statute is inapplicable.

Bedford's application states the offenses "are eligible to be vacated and expunged pursuant to KRS 431.073 or the defendant has been granted a full

¹ The application was stamped "filed" on April 31, 2017; however, that date does not exist.

² Kentucky Revised Statutes.

pardon by the Governor, a copy of which is attached.” KRS 431.073(1) permits expungement of felonies which have been pardoned, stating “[a]ny person . . . who has been granted a full pardon, may file with the court in which he or she was convicted an application to have the judgment vacated.” It is clear the trial court did not consider the authority conveyed to it by this statute. As such, its order is reversed, and the matter remanded for entry of an order considering KRS 431.073(1).

For the foregoing reasons, the order of the Jefferson Circuit Court is REVERSED and REMANDED.

ALL CONCUR.

BRIEF FOR APPELLANT:

Phillip M. Bedford, *pro se*
Oakland, California

BRIEF FOR APPELLEE:

Andy Beshear
Attorney General of Kentucky

Emily Bedelle Lucas
Assistant Attorney General
Frankfort, Kentucky