

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

ISRAEL SCOTT,

Defendant-Appellee.

UNPUBLISHED

December 18, 2003

No. 241050

Wayne Circuit Court

LC No. 96-500388-01

Before: Fitzgerald, P.J., and Neff and White, JJ.

MEMORANDUM.

The prosecutor appeals as of right from a trial court order granting defendant's motion to set aside his conviction. We reverse and remand for reinstatement of the conviction. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

A person convicted "of not more than 1 offense" may apply to set aside the conviction. MCL 780.621(1). According to the plain language of the statute, "only those persons whose criminal records are blemished by a single conviction for a single crime (crime being synonymous with offense) committed on a single occasion meet the threshold requirement and are eligible for expungement." *People v McCullough*, 221 Mich App 253, 257; 561 NW2d 114 (1997). The term "offense" is not limited to felonies; it also includes misdemeanor offenses. *People v Grier*, 239 Mich App 521, 523; 608 NW2d 821 (2000).

Defendant moved to set aside a 1996 conviction of fourth-degree criminal sexual conduct. MCL 750.520e. There is no dispute that at the time defendant filed his motion, he had a conviction for the misdemeanor offense of driving on a suspended license. MCL 257.904(3). Consequently, he was not eligible for expungement and the trial court erred in setting aside the conviction.

Reversed and remanded for reinstatement of the conviction. Jurisdiction is not retained.

/s/ E. Thomas Fitzgerald

/s/ Janet T. Neff

/s/ Helene N. White