

[Cite as *State v. Wallace*, 2001-Ohio-4184.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 79669

STATE OF OHIO,	:	ACCELERATED
	:	
Plaintiff-Appellant	:	
	:	JOURNAL ENTRY
vs.	:	AND
	:	OPINION
DORIS WALLACE,	:	
	:	
Defendant-Appellee	:	

DATE OF ANNOUNCEMENT OF DECISION	:	DECEMBER 6, 2001
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CHARACTER OF PROCEEDING:	:	Criminal appeal from
	:	Common Pleas Court
	:	Case No. CR-199579

JUDGMENT	:	VACATED.
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DATE OF JOURNALIZATION	:	
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APPEARANCES:

For plaintiff-appellant:	William D. Mason, Esq. Cuyahoga County Prosecutor BY: Diane Smilanick, Esq. Assistant County Prosecutor The Justice Center – 8 th Floor 1200 Ontario Street Cleveland, Ohio 44113
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For defendant-appellee:	Irl D. Rubin, Esq. 35401 Euclid Avenue, Suite 101 Cleveland, Ohio 44094
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MICHAEL J. CORRIGAN, P.J.:

This case came to be heard upon the accelerated calendar pursuant to App.R. 11.1 and Loc.R. 11.1, the record from the Cuyahoga County Court of Common Pleas and the briefs of counsel.

The court sealed the record of defendant Doris Walker's conviction, even though she admittedly had not paid restitution as ordered when sentenced. The court sealed the record of conviction anyway, finding it an open issue whether the court could enforce a restitution order after an offender had been discharged.

The court erred by sealing the record of conviction. Our cases have uniformly held that an offender is not finally discharged for purposes of R.C. 2953.32(A)(1) until all fines or restitution have been paid. See *State v. Wainwright* (1991), 75 Ohio App.3d 793, 600 N.E.2d 831; *State v. Pettis*, 133 Ohio App.3d 618, 729 N.E.2d 449 (1999); *State v. McKenney* (May 31, 2001), Cuyahoga App. No. 79033, unreported. As defendant had not paid restitution, she was not finally discharged as required by R.C. 2953.32(A)(1). A "final discharge" for purposes of having a record of conviction sealed is a different matter than being paroled. Hence, the court's misgivings about whether the Ohio Adult Parole Authority has the sole authority to enforce restitution orders after discharge from prison are simply not an issue for our purposes here. The assigned error is sustained.

Expungement vacated.

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This cause is vacated for 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 said court 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.

MICHAEL J. CORRIGAN
PRESIDING JUDGE

PATRICIA A. BLACKMON, J., and

ANNE L. KILBANE, 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).