

[Cite as *State v. Taylor*, 2002-Ohio-576.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 78049

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

DATE OF ANNOUNCEMENT :
OF DECISION : FEBRUARY 14, 2002
CHARACTER OF PROCEEDING: : Criminal appeal from
: Common Pleas Court
: Case No. CR-385493
JUDGMENT : REVERSED AND REMANDED.
DATE OF JOURNALIZATION :

APPEARANCES:

For plaintiff-appellant: William D. Mason, Esq.
Cuyahoga County Prosecutor
BY: John Smerillo, Esq.
Lisa Reitz Williamson, Esq.
Assistant County Prosecutors
The Justice Center – 8th Floor
1200 Ontario Street
Cleveland, Ohio 44113

For defendant-appellee: James A. Draper, Esq.
Cuyahoga County Public Defender
BY: Suzanne Sweeney, Esq.
Carlos Warner, Esq.
Assistant Public Defenders
1200 West Third Street, N.W.
100 Lakeside Place
Cleveland, Ohio 44113

MICHAEL J. CORRIGAN, P.J.:

This case came to be heard upon the accelerated calendar pursuant to App.R. 11.1 and Local Rule 11.1, the record from the Cuyahoga County Court of Common Pleas and the briefs of counsel. The court dismissed a single count indictment charging defendant Alonzo Taylor with escape after he failed to attend a scheduled meeting with his parole officer. The court's only reason for dismissing the indictment was that the "application of statute which is the basis of indictment is *ex post [sic.] facto.*" The state appeals.

Defendant was charged with missing a July 22, 1999 meeting with his parole officer. At that time, R.C. 2921.01(E) defined "detention" as "supervision by an employee of the department of rehabilitation and correction of a person on any type of release from a state correctional institution."

The court erred by considering the application of the escape statute to be *ex post facto* because the failure to report to a parole officer is "a new felony offense under the law in effect at the time of the new offense." See *State v. Trollinger* (Aug. 20, 1999), Hamilton App. No. C-980824, unreported; see, also, *State v. Bell* (Aug. 31, 2001), Belmont App. No. 00 BA 25, unreported; *State v. McFolley* (July 11, 2001), Lorain App. No. 00CA007614, unreported; *State v. Estis* (June 11, 1999), Lucas App. No. L-98-1373, unreported. The assigned error is sustained.

Judgment reversed and remanded.

[Cite as *State v. Taylor*, 2002-Ohio-576.]

This cause is reversed and remanded 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

ANNE L. KILBANE, J., and

ANN 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).