COURT OF APPEALS
LICKING COUNTY, OHIO
FIFTH APPELLATE DISTRICT

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| STATE OF OHIO | : | JUDGES: |
| | : | |
| | : | Hon. William B. Hoffman, P.J. |
| Plaintiff-Appellee | : | Hon. John W. Wise, J. |
| | : | Hon. Patricia A. Delaney, J. |
| -vs- | : | |
| | : | Case No. 2019 CA 00023 |
| | : | |
| JAMES A. JEWELL | : | |
| | : | |
| | : | |
| Defendant-Appellant | : | O P I N I O N |

CHARACTER OF PROCEEDING:     Appeal from the Licking County
Municipal Court, 19CRB00298

JUDGMENT:                                REVERSED; JUDGMENT RENDERED

DATE OF JUDGMENT ENTRY:        February 10, 2020

APPEARANCES:

For Plaintiff-Appellee:                        For Defendant-Appellant:

TRICIA M. MOORE                          JAMES JEWELL, PRO SE
Assistant Director of Law                  633 E. Crest Dr.
40 West Main Street                         Heath, OH 43056
Newark, OH 43055

*Delaney, J.*

{¶1} Defendant-Appellant James A. Jewell appeals his March 22, 2019 conviction and sentence by the Licking County Municipal Court for violation of a protection order. The Plaintiff-Appellee is the State of Ohio.

## FACTS AND PROCEDURAL HISTORY

{¶2} On February 4, 2019, the Licking County Court of Common Pleas, Domestic Relations Division granted a petition for an ex parte civil protection order against Defendant-Appellant James A. Jewell in Case No. 2019 DR 00114.

{¶3} On February 14, 2019, Jewell was charged with the violation of a protection order, a misdemeanor of the first degree in violation of R.C. 2919.27. He entered a plea of not guilty.

{¶4} On February 21, 2019, after the full hearing on the petition for civil protection order, the Licking County Court of Common Pleas, Domestic Relations Division denied the petition for the civil protection order.

{¶5} On March 12, 2019, the Licking County Court of Common Pleas, Domestic Relations Division issued a Judgment Entry (Entry of Expungement), which ordered that all official records pertaining to Case No. 2019 DR 00114 would be sealed and deleted, so that all proceedings in the case were deemed to have not occurred. The ex parte protection order and all records were ordered to be expunged and erased as a record.

{¶6} On March 22, 2019, Jewell entered a plea of guilty to the charge of violating a protection order. The Licking County Municipal Court accepted the plea and sentenced Jewell to 180 days in jail, suspended.

{¶7}   Jewell filed his Notice of Appeal of his conviction and sentence on April 19, 2019.

## ASSIGNMENT OF ERROR

{¶8}   Jewell raises one Assignment of Error:

{¶9}   "THE TRIAL COURT ERRED IN GRANTING THE MOTION FOR SUMMARY JUDGMENT OF DEFENDANT APPELLEE, JAMES JEWELL.

## ANALYSIS

{¶10} In response to Jewell's appeal of his March 22, 2019 conviction and sentence for violation of a protection order, the State filed a Concession of Error on October 7, 2019.

{¶11} The State concedes that Jewell's sole Assignment of Error should be sustained, stating in its Concession of Error:

> The brief submitted by the appellant contained an order from domestic relations court denying the full protection order and ordering the expungement and deletion of the record "so that all other proceedings in this case shall be deemed to not have occurred." Judgment Entry (Entry of Expungement) in case 2019 DR 00114. It also forbids the use of the records by persons and entities listed in the entry. Id. The date on the entry is March 12, 2019, ten days prior to the appellant's plea in this matter. Upon review of the language in the entry, the defendant should not have been convicted of the violation in this matter and the Appellee concedes the error.

{¶12} Based upon the State's concession, we hereby sustain the Assignment of Error and reverse the March 22, 2019 conviction and sentence by the Licking County

Municipal Court for violation of a protection order. Pursuant to App.R. 12(B), we render judgment that the February 14, 2019 charge against James A. Jewell for violation of a protection order is hereby dismissed.

## CONCLUSION

{¶13} The judgment of the Licking County Municipal Court is reversed and final judgment rendered pursuant to App.R. 12(B).

By:  Delaney, J.,

Hoffman, P.J. and

Wise, John, J., concur.

<br>

HON. PATRICIA A. DELANEY

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HON. WILLIAM B. HOFFMAN

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HON. JOHN W. WISE