

SUPREME COURT OF OHIO

State of Ohio v. Radcliff

State v. Radcliff, 142 Ohio St. 3d 78, 2015-Ohio-235 (Ohio 2015) · No. 2012-1985 and 2013-0004 · Decided January 28, 2015

SUMMARY

The Supreme Court of Ohio held that a court lacks authority to seal the criminal record of a pardoned offender who does not satisfy the statutory requirements for sealing under Ohio Revised Code sections 2953.32 and 2953.52. The court answered a certified conflict question in the negative, rejected the contrary holding in *State v. Cope*, and affirmed the judgment of the Tenth District Court of Appeals. The majority concluded that a pardon provides forgiveness but does not erase the conviction or require record sealing.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	O'Connor, C.J.; O'Donnell, J.; Kennedy, J.; French, J.; Pfeifer, J.; Lanzinger, J.; O'Neill, J.
JURISDICTION	Ohio
DECIDED	January 28, 2015
DOCKET	2012-1985 and 2013-0004
DISPOSITION	affirmed
PROCEDURAL POSTURE	Certified-conflict and discretionary appeal from the Tenth District Court of Appeals concerning whether a trial court may seal the record of a pardoned conviction when the offender has other convictions.
STANDARD OF REVIEW	The opinion does not expressly identify a formal standard of review. It applies statutory interpretation and reviews the legal authority of a court to seal a pardoned conviction.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	James Radcliff v. State of Ohio

TOPICS

- post-conviction relief
- criminal procedure
- statutory interpretation
- separation of powers
- appellate procedure

PRACTICE AREAS

criminal procedure

post-conviction relief

statutory interpretation

constitutional law

remedies

appellate procedure

QUESTIONS PRESENTED

1. May a trial court exercise jurisdiction to seal the record of a pardoned conviction when the petitioner has other offenses on his record?
2. Does a trial court possess inherent authority to seal the record of a conviction erased by a gubernatorial pardon in order to give effect to a constitutional privacy provision?
3. Did the First District's holding in *State v. Cope* correctly permit sealing of a pardoned conviction regardless of the petitioner's other offenses?

HOLDINGS

1. A court lacks authority to seal the criminal record of a pardoned offender who does not meet the applicable statutory requirements for sealing the record.
2. The judiciary's inherent authority recognized in *Pepper Pike v. Doe* is limited and does not authorize sealing the record of a pardoned conviction held by a convicted non-first offender.
3. The certified question is answered in the negative, *State v. Cope* is rejected, Radcliff's proposition of law is overruled, and the Tenth District's judgment is affirmed.

KEY QUOTATIONS

"We hold that a court lacks the authority to seal a criminal record of a pardoned offender who does not meet applicable statutory requirements for sealing the record." (2015-Ohio-235, ¶ 37)

"Until the General Assembly acts, we are left with the understanding that a pardon provides only forgiveness, not forgetfulness." (2015-Ohio-235, ¶ 36)

"the sealing of a criminal record is a "privilege, not a right."" (2015-Ohio-235, ¶ 15)

FACTUAL BACKGROUND

Governor Ted Strickland granted James Radcliff a full and unconditional pardon on January 7, 2011, covering five convictions from approximately 30 years earlier. Radcliff then sought to seal his Franklin County conviction for breaking and entering, but he had at least seven convictions and therefore did not qualify as a first offender under Ohio's record-sealing statutes. The trial court granted the application, while the Tenth District reversed, concluding that neither the statutes nor the judiciary's inherent authority authorized sealing under these circumstances.

PROCEDURAL HISTORY

After Governor Ted Strickland granted Radcliff a full and unconditional pardon, Radcliff applied to the Franklin County Court of Common Pleas to seal one pardoned conviction. The trial court granted the application, but the

Tenth District Court of Appeals reversed and remanded with instructions to deny it. The Tenth District certified a conflict with *State v. Cope*, and the Supreme Court of Ohio accepted and consolidated the certified-conflict matter with Radcliff's discretionary appeal.

DISPOSITION

affirmed

CASES CITED

- *State v. Boykin*, 138 Ohio St. 3d 97, 2013-Ohio-4582, 4 N.E.3d 980
- *State v. Cope*, 111 Ohio App. 3d 309, 676 N.E.2d 141 (1st Dist. 1996)
- *Pepper Pike v. Doe*, 66 Ohio St. 2d 374, 421 N.E.2d 1303 (1981)
- *State ex rel. Cincinnati Enquirer v. Lyons*, 140 Ohio St. 3d 7, 2014-Ohio-2354, 14 N.E.3d 989
- *State v. Futrall*, 123 Ohio St. 3d 498, 2009-Ohio-5590, 918 N.E.2d 497
- *State v. Simon*, 87 Ohio St. 3d 531, 721 N.E.2d 1041 (2000)
- *State v. Hamilton*, 75 Ohio St. 3d 636, 665 N.E.2d 669 (1996)
- *Madjorous v. State*, 113 Ohio St. 427, 149 N.E. 393 (1925)
- *State v. Bailey*, 10th Dist. Franklin No. 02AP-406, 2002-Ohio-6740
- *State v. Wilfong*, 2d Dist. Clark No. 2000-CA-75, 2001 WL 256326
- *State v. Chiaverini*, 6th Dist. Lucas No. L-00-1306, 2001 WL 256104
- *State v. Winkelman*, 2 Ohio App. 3d 465, 442 N.E.2d 811 (12th Dist. 1981)
- *State v. Weber*, 19 Ohio App. 3d 214, 484 N.E.2d 207 (1st Dist. 1984)
- *Knapp v. Thomas*, 39 Ohio St. 377 (1883)
- *State ex rel. Maurer v. Sheward*, 71 Ohio St. 3d 513, 644 N.E.2d 369 (1994)
- *State ex rel. Ohio Academy of Trial Lawyers v. Sheward*, 86 Ohio St. 3d 451, 715 N.E.2d 1062 (1999)
- *Norwood v. Horney*, 110 Ohio St. 3d 353, 2006-Ohio-3799, 853 N.E.2d 1115
- *State v. Skinner*, 632 A.2d 82 (Del. 1993)
- *Stone v. Oklahoma Real Estate Commission*, 369 P.2d 642 (Okla. 1962)
- *Brasch v. State*, 118 Ohio App. 3d 659, 693 N.E.2d 1134 (12th Dist. 1997)
- *State v. Aguirre*, 2014-Ohio-4603
- *State v. Pariag*, 137 Ohio St. 3d 81, 2013-Ohio-4010, 998 N.E.2d 401
- *Roe v. Wade*, 410 U.S. 113 (1973)
- *Griswold v. Connecticut*, 381 U.S. 479 (1965)