

**IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
GREENE COUNTY**

STATE OF OHIO	:	
	:	Appellate Case No. 2008-CA-02
Plaintiff-Appellee	:	
	:	Trial Court Case No. 06-CRB-1114-1
v.	:	
	:	(Criminal Appeal from Xenia
JAMES P. REED	:	Municipal Court)
	:	
Defendant-Appellant	:	

.....

O P I N I O N

Rendered on the 16th day of January, 2009.

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RONALD C. LEWIS, Atty. Reg. #0061980, 101 North Detroit Street, Xenia, Ohio 45385
Attorney for Plaintiff-Appellee

PATRICK J. CONBOY, Atty. Reg. #0070073, 5613 Brandt Pike, Huber Heights, Ohio 45424
Attorney for Defendant-Appellant

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BROGAN, J.

{¶ 1} James Reed appeals from his conviction in the Xenia Municipal Court of failing to maintain vegetation, garbage, refuse and other debris constituting a nuisance in violation of Xenia Township Resolution 2001 - 146 and R.C. 505.87.

{¶ 2} Reed argues in his sole assignment that he was improperly convicted because violations of the township resolution and R.C. 505.87 are not crimes. We agree.

The Township has not favored this Court with an appellate brief in the matter. Resolution 2001-146 provides that if an owner of property fails to remove vegetation, garbage, refuse or other debris, it shall constitute a nuisance and, after due notice to the owner to remove, the Township shall abate the nuisance and charge the expense to the owner on the tax duplicate.

{¶ 3} R.C. 505.87 contains similar language and is also a civil nuisance abatement statute. It likewise contains no criminal penalty. See R.C. 505.99.

{¶ 4} The Township amended the township resolution on October 16, 2007 to provide that a violation of the resolution would be a misdemeanor carrying a maximum fine of \$500. This amendment, however, could have no application to Reed since he was alleged to have committed the “offense” on January 23, 2006. The Appellant’s assignment of error is Sustained. The judgment of the trial court is Reversed.

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WOLFF, J., and FAIN, J., concur.

Copies mailed to:

Ronald C. Lewis
Patrick J. Conboy
Hon. Michael K. Murry