

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

STATE OF OHIO	:	
	:	Appellate Case No. 09-CA-21
Plaintiff-Appellee	:	
	:	Trial Court Case No. 05-CR-502
v.	:	
	:	
ALICIA McALMONT	:	(Criminal Appeal from
	:	Common Pleas Court)
Defendant-Appellant	:	

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O P I N I O N

Rendered on the 30th day of November, 2010.

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PER CURIAM:

{¶ 1} Alicia McAlmont appeals from her conviction in the Clark County
Common Pleas Court of murder, aggravated robbery, involuntary manslaughter, and
theft. McAlmont was jointly tried with two co-defendants, Toneisha Gunnell and

Mahogany Patterson, who were convicted of the same charges as McAlmont.

{¶ 2} On September 17, 2010, we reversed the conviction of Toneisha Gunnell. See *State v. Gunnell*, Clark App. No. 09-CA-0013, 2010-Ohio-4415. In that appeal, we held that the trial court lacked a manifest necessity for declaring a mistrial in Gunnell's second trial. Consequently, we held the trial court erred in not granting Gunnell's motion to dismiss made before the third trial that resulted in her conviction. In short, we held the trial court violated Gunnell's protection against double jeopardy as set out in the United States and Ohio Constitutions.

{¶ 3} McAlmont has raised the identical claim in her second assignment of error herein that her protection against double jeopardy was violated by the trial court's denial of a similar motion. McAlmont's second assignment is Sustained on the authority of *State v. Gunnell*, supra. We need not address McAlmont's other two assignments of error because the resolution of the second assignment is dispositive of this appeal.

{¶ 4} The judgment of the trial court will be Reversed and McAlmont's sentence and convictions Vacated. She will be ordered discharged from custody as to these convictions. However, we note that in *State v. Gunnell*, supra, the State of Ohio obtained a stay of execution of our judgment from the Ohio Supreme Court pending review by that Court. See *State v. Gunnell*, Ohio Supreme Court Case No. 2010-1636. Thus, pending further order of this court, execution of our judgment and order herein is hereby stayed for forty-five days from the date of the filing of this judgment so as to enable the State of Ohio to file a notice of appeal in the Ohio Supreme Court and to seek a further stay of execution from that Court.

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BROGAN, FAIN, and FROELICH, JJ, concur.

Copies mailed to:

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Charles M. Blue
Hon. Douglas M. Rastatter