

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
WOOD COUNTY

State of Ohio

Court of Appeals No. WD-13-015
WD-13-016

Appellee

Trial Court No. 2009CR0363
2009CR0364

v.

Denise M. Pheils, et al.

DECISION AND JUDGMENT

Appellant

Decided: November 8, 2013

* * * * *

Paul Dobson, Wood County Prosecuting Attorney, and
David E. Romaker, Jr., and Aaron T. Lindsey, Assistant Prosecuting
Attorneys, for appellee.

Mollie B. Hojnicky, for appellant.

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SINGER, P.J.

{¶ 1} Appellants, Jim and Denise Pheils, appeal from an order of the Wood
County Court of Common Pleas, dismissing their “application for sealing and

expungement of record: request for a hearing.” In their sole assignment of error, appellants contend that the court erred in failing to hold an evidentiary hearing pursuant to R.C. 2953.52(B). Appellee, the state of Ohio, concedes the error.

{¶ 2} R.C. 2953.52 governs the sealing of official records for persons found not guilty of an offense or who have had a criminal complaint dismissed. It states in pertinent part:

Upon the filing of an application pursuant to division (A) of this section, the court shall set a date for a hearing and shall notify the prosecutor in the case of the hearing on the application. The prosecutor may object to the granting of the application by filing an objection with the court prior to the date set for the hearing.

{¶ 3} Because we find the denial of appellants’ application to seal records without a necessary hearing constitutes an abuse of the trial court's discretion, appellants’ assignment of error is well-taken. *See State v. Moulder*, 8th Dist. Cuyahoga No. 98661, 2013-Ohio-1036. This cause is reversed and remanded to the lower court for further proceedings consistent with this opinion. Appellee is ordered to pay the costs of this appeal pursuant to App.R. 24.

Judgment reversed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27.
See also 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J.

JUDGE

Arlene Singer, J.

JUDGE

James D. Jensen, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.