

[Cite as *State v. Wright*, 2004-Ohio-4474.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 83284

STATE OF OHIO,	:	
	:	
	:	JOURNAL ENTRY
Plaintiff-Appellant	:	
	:	AND
v.	:	
	:	OPINION
THOMAS WRIGHT,	:	
	:	
	:	
Defendant-Appellee	:	

DATE OF ANNOUNCEMENT OF DECISION:	<u>AUGUST 26, 2004</u>
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CHARACTER OF PROCEEDING:	Criminal appeal from Common Pleas Court, Case No. CR-432823.
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JUDGMENT:	REVERSED.
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DATE OF JOURNALIZATION:

APPEARANCES:

For Plaintiff-Appellant:	William D. Mason Cuyahoga County Prosecutor Perry M. Kendall, Jr. Gail D. Baker Jon W. Oebker Assistant Prosecuting Attorneys The Justice Center, 9 th Floor 1200 Ontario Street Cleveland, OH 44113
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For Defendant-Appellee:	Robert L. Tobik Cuyahoga County Public Defender Paul Kuzmins
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TIMOTHY E. McMONAGLE, J.

{¶1} Plaintiff-Appellee, the State of Ohio, appeals from the trial court's order dismissing this case. In light of the recent decision by the Ohio Supreme Court in *State v. Thompson*, 102 Ohio St.3d 287, 2004-Ohio-2946, we reverse and remand.

{¶2} On April 1, 2002, defendant-appellee, Thomas Wright, began a term of parole supervision with the Adult Parole Authority in connection with a crime he committed prior to July 1, 1996, the date of the enactment of Senate Bill 2. In January 2003, as a result of Wright's alleged failure to report to his parole officer after September 2002, the Cuyahoga County Grand Jury indicted him on one count of escape, in violation of R.C. 2921.34. The trial court subsequently dismissed the case in reliance on this court's opinion in *State v. Thompson*, Cuyahoga App. No. 78919, 2002-Ohio-6478, in which we held that a parolee sentenced on an underlying conviction prior to the enactment of Senate Bill 2 cannot later be charged with escape.

{¶3} The Ohio Supreme Court recently reversed this court's ruling in *Thompson*, however. The Supreme Court held that "a parolee who fails to report to his parole officer after March 17, 1998,¹ may be prosecuted for escape under R.C.

¹R.C. 2967.15(C) (2) was amended on March 17, 1998 to provide

2921.34, regardless of when his or her underlying crime was committed." Id. at 290. In reaching this conclusion, the Supreme Court reasoned that the date of the underlying offense is of no consequence because the parole violation is a new criminal offense, unrelated to conduct that led to the prior conviction.

{¶4} Although we agree with the Chief Justice's dissent in *Thompson*, we are constrained to find that the trial court erred in dismissing this case. Appellant's assignment of error is sustained.

Reversed.

that parolees were among the class of persons who could be prosecuted for escape.

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This cause is remanded for further proceedings consistent with the opinion herein.

It is, therefore, ordered that appellant recover from appellee costs herein.

It is ordered that a special mandate be sent to said court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

TIMOTHY E. McMONAGLE
JUDGE

JAMES J. SWEENEY, J., CONCURS.

FRANK D. CELEBREZZE, JR., P.J., CONCURS
IN JUDGMENT ONLY.

N.B. This entry is an announcement of the court's decision. See App.R. 22(B), 22(D) and 26(A); Loc.App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(E) unless a motion for reconsideration with supporting brief, per App.R. 26(A), is filed within ten (10) days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(E). See, also, S.Ct.Prac.R. II, Section 2(A)(1).

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