

[Cite as *State v. Brown*, 2005-Ohio-21.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 84599

STATE OF OHIO, :

Plaintiff-Appellant :

vs. :

FREDERICK BROWN, :

Defendant-Appellee :

:

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:

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:

JOURNAL ENTRY
and
OPINION

DATE OF ANNOUNCEMENT
OF DECISION

:

JANUARY 6, 2005

CHARACTER OF PROCEEDING

:

:

:

Criminal appeal from
Common Pleas Court
Case No. CR-413246

JUDGMENT

:

REVERSED AND REMANDED.

DATE OF JOURNALIZATION

:

APPEARANCES:

For plaintiff-appellant:

William D. Mason, Esq.

Cuyahoga County Prosecutor

BY: Scott Zarzycki, Esq.

Assistant County Prosecutor

The Justice Center – 8th Floor

1200 Ontario Street

Cleveland, Ohio 44113

For defendant-appellee:

Bret Jordan, Esq.

BRUNER & JORDAN

1600 Illuminating Building

55 Public Square

Cleveland, Ohio 44113

JAMES D. SWEENEY, J.*:

{¶ 1} The state charged defendant-parolee Frederick Brown with escape after he failed to report timely to his parole officer. Brown filed a motion to dismiss the charge, citing to our decision in *State v. Thompson*, Cuyahoga App. No. 78919, 2002-Ohio-6478, in which we held that a parolee cannot be prosecuted for escape if the underlying offense giving rise to the parole status had been committed prior to July 1, 1996. The court granted the motion to dismiss.

{¶ 2} We sustain the state's assignment of error because the Ohio Supreme Court recently reversed our decision in *Thompson*. In *State v. Thompson*, 102 Ohio St.3d 287, 2004-Ohio-2946, the supreme court held that the date of the underlying offense is irrelevant to the crime of escape. For purposes of the escape charge, we need only be concerned with the date on which the escape occurred. It follows that the court erred by granting Brown's motion to dismiss.

Reversed and remanded.

This cause is reversed and remanded for proceedings consistent with this opinion.

It is, therefore, ordered that said appellant recover of said appellee its costs herein taxed.

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.

JAMES D. SWEENEY*
JUDGE

SEAN C. GALLAGHER, P.J., and

ANTHONY O. CALABRESE, JR., J., CONCUR.

(*SITTING BY ASSIGNMENT: Judge James D. Sweeney, Retired, of the Eighth District Court of Appeals.)

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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