

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
Nos. 95902 and 95903

CITY OF CLEVELAND HEIGHTS

PLAINTIFF-APPELLEE

vs.

RAYMOND M. STINEMAN, ET AL.

DEFENDANTS-APPELLANTS

**JUDGMENT:
DISMISSED**

Criminal Appeal from the
Cleveland Heights Municipal Court
Case Nos. CRB-1001480 and CRB-1001481

BEFORE: Blackmon, P.J., Celebrezze, J., and E. Gallagher, J.

RELEASED AND JOURNALIZED: March 31, 2011

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PATRICIA ANN BLACKMON, P.J.:

{¶ 1} In this consolidated appeal, appellants, Raymond M. and Ross W. Stineman (“the Stineman brothers”) appeal their minor misdemeanor convictions for having open containers of beer in a public place, and assign the following error for our review:

“I. The trial court erred in finding appellant[s] guilty of being in possession of an open container of beer while in a public place in violation of §529.07 of the codified ordinance of Cleveland Heights.”

{¶ 2} Having reviewed the record and pertinent law, we dismiss the appeal as moot.

The apposite facts follow.

{¶ 3} On July 17, 2010, a Cleveland Heights police officer cited the Stineman brothers for having open containers of beer in a public place. On August 23, 2010, through their attorney, the Stineman brothers pleaded not

guilty and executed waivers of their right to a speedy trial. On September 23, 2010, a bench trial was conducted. The trial court found the Stineman brothers guilty and fined them \$35 each, plus court costs. The Stineman brothers immediately paid their fines and costs totaling \$140 each. The Stineman brothers now appeal.

Minor Misdemeanor Conviction

{¶ 4} In the sole assigned error, the Stineman brothers argue the trial court erred in finding them guilty of possessing open containers in a public place.

{¶ 5} However, a review of the record indicates that the Stineman brothers immediately paid their fines and court costs after the trial court found them guilty without ever requesting a stay of execution.

{¶ 6} It is well settled that when a defendant, who has been convicted of a misdemeanor offense, voluntarily completes his sentence for that offense, “an appeal is moot when no evidence is offered from which an inference can be drawn that the defendant will suffer some collateral disability or loss of civil rights from such judgment or conviction.” *Oakwood v. Pfanner*, Cuyahoga App. No. 90664, 2009-Ohio-464 ¶3, quoting *State v. Wilson* (1975), 41 Ohio St.2d 236, 325 N.E.2d 236; see, also, *State v. Golston*, 71 Ohio St.3d 224, 1994-Ohio-109, 643 N.E.2d 109.

{¶ 7} Traditionally, in reviewing misdemeanor convictions, we have held that “unless one convicted of a misdemeanor seeks to stay the sentence

imposed pending appeal or otherwise involuntarily serves or satisfies it, the case will be dismissed as moot unless the defendant can demonstrate a particular civil disability or loss of civil rights specific to him arising from the conviction.” *Cleveland v. Martin*, Cuyahoga App. No. 79896, 2002-Ohio-1652. See, also, *Cleveland v. Pavlick*, Cuyahoga App. No. 91232, 2008-Ohio-6164.

{¶ 8} Further, in *Cleveland Hts. v. Lewis*, 187 Ohio App.3d 786, 2010-Ohio-2208, 933 N.E.2d 1146,¹ our most recent en banc decision on this issue, we held that where a defendant moved for a stay of execution of the sentence, and the stay was denied by the trial court, the sentence was involuntarily served or satisfied. Therefore, in such a case, the defendant’s appeal of the conviction was not moot, even though he had completed all aspects of his sentence and failed to allege any collateral disability. *Id.*

{¶ 9} In the instant case, the Stineman brothers have completely satisfied the penalty imposed pursuant to their minor misdemeanor convictions by immediately paying their fines and court costs. In addition, the Stineman brothers never moved for a stay of execution of their sentences.

Thus, there is no further ongoing or future penalty from which this court can grant relief. Moreover, their briefs are completely void of any assertions of a collateral disability or loss of civil rights that they will allegedly suffer as a result of the conviction. Accordingly, the appeal is dismissed.

¹This case is currently pending in the Ohio Supreme Court.

Dismissed.

It is ordered that appellee recover of appellants its costs herein taxed.

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

PATRICIA ANN BLACKMON, PRESIDING JUDGE

FRANK D. CELEBREZZE, JR., J., and
EILEEN A. GALLAGHER, J., CONCUR