[Cite as *Lakewood v. Sclimenti*, 2015-Ohio-1842.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 101931

CITY OF LAKEWOOD

PLAINTIFF-APPELLEE

vs.

FRANCES D. SCLIMENTI

DEFENDANT-APPELLANT

JUDGMENT:
DISMISSED

Criminal Appeal from the
Lakewood Municipal Court
Case No. 2014 CRB 01125

BEFORE: Laster Mays, J., E.A. Gallagher, P.J., and S. Gallagher, J.

RELEASED AND JOURNALIZED: May 14, 2015

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ANITA LASTER MAYS, J.:

{¶1} Defendant-appellant Frances D. Sclimenti[1] ("Sclimenti") appeals from her conviction in Lakewood Municipal Court for disorderly conduct.

{¶2} Although Sclimenti presents three assignments of error, this court will not address them because the record reflects this appeal is moot. Consequently, it is dismissed.

{¶3} The municipal court in this case found Sclimenti guilty of the minor misdemeanor offense of disorderly conduct in violation of Lakewood Ordinance 509.03(a) and imposed only a fine of $75 and court costs. According to the docket, Sclimenti paid the fine and court costs. She did so without requesting a stay of execution of her sentence.

{¶4} In *Cleveland Hts. v. Lewis*, 129 Ohio St.3d 389, 2011-Ohio-2673, 953 N.E.2d 278, at ¶ 17-19, the Ohio Supreme Court observed:

> At common law, courts considered appeals in criminal cases to be moot if the appellant had completed the sentence prior to a ruling on the appeal on the basis that if a sentence had been served, a favorable judgment could not "operate to undo what has been done or restore to petitioner the penalty of the term of imprisonment which he has served." *St. Pierre v. United States* (1943), 319 U.S. 41, 42-43, 63 S.Ct.910, 87 L.Ed.1199; *see generally* 7 Lafave, Isreal, King & Kerr, Criminal Procedure (3d Ed.2007), Section 27.5(a).
>
> In accordance with this rule, we held in *State v. Wilson* (1975), 41 Ohio St.2d 236, 70 O.O.2d 431, 325 N.E.2d 236, that "[w]here a defendant, convicted of a criminal offense, has voluntarily paid the fine or completed

[1]Defendant-appellate's name in court records is spelled Francis with an ("i") and Frances with an ("e"). This court will use the traditional feminine of the name.

> the 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." (Emphasis added.) Id. at syllabus. Moreover, in *State v. Berndt* (1987), 29 Ohio St.3d 3, 4, 29 OBR 173, 504 N.E.2d 712, we determined that it is reversible error for an appellate court to consider the merits of an appeal that has become moot after the defendant has voluntarily satisfied the sentence, holding that "[w]here the appellate court hears and decides an appeal that is moot, the judgment of the appellate court will be reversed and the trial court's judgment reinstated, as if the appeal had been dismissed."
>
> Nonetheless, recognizing the various statutory and societal consequences attaching to a felony conviction, the court in *State v. Golston* (1994), 71 Ohio St.3d 224, 1994 Ohio 109, 643 N.E.2d 109, adopted a conclusive presumption that "[a] person convicted of a felony has a substantial stake in the judgment of conviction which survives the satisfaction of the judgment imposed upon him or her. Therefore, an appeal challenging a felony conviction is not moot even if the entire sentence has been satisfied before the matter is heard on appeal." Id. at syllabus. We thus limited the holdings in *Wilson* and *Berndt* to *appeals from misdemeanor convictions in which the appellant has voluntarily completed the sentence and in which no collateral consequences resulted from the conviction*. *Golston* at 227.

(Emphasis added.)

{¶5} The limitation mentioned by the court in *Lewis* directly applies in this case. *Columbiana v. Clark*, 7th Dist. Columbiana No. 11 CO 28, 2012-Ohio-4573, ¶ 9-11. Sclimenti, by her omissions, has "acquiesced" in the judgment and "abandoned the right to appellate review." *Lewis* at ¶ 21.

{¶6} The municipal court's docket reflects that Sclimenti voluntarily has paid her fine and court costs after her conviction for a minor misdemeanor, and Sclimenti has not offered this court any argument that she will be subject to any collateral consequences from her conviction. *Oakwood v. Pfanner*, 8th Dist. Cuyahoga No. 90664,

2009-Ohio-464, ¶ 4; *Cleveland v. Martin*, 8th Dist. Cuyahoga No. 79896, 2002-Ohio-1652; *In re: B.G.*, 9th Dist. Summit No. 24428, 2009-Ohio-1493; *compare In re: S.J.K.*, 114 Ohio St.3d 23, 2007-Ohio-2621, 867 N.E.2d 408; *Cleveland v. Mandija*, 8th Dist. Cuyahoga No. 97735, 2012-Ohio-5715. Thus, her appeal is moot. As this court previously has noted, "A court has no jurisdiction to decide moot cases because there is no subject matter upon which the court's decision could operate." *Solon v. Bollin-Booth*, 8th Dist. Cuyahoga No. 97099, 2012-Ohio-815, fn. 2; *see also Lewis* at ¶ 26.

{¶7} This appeal, therefore, is dismissed.

It is ordered that appellee recover from appellant costs herein taxed. The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the municipal 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.

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ANITA LASTER MAYS, JUDGE

EILEEN A. GALLAGHER, P.J., and
SEAN C. GALLAGHER, J., CONCUR