

[Cite as *State v. Dozanti*, 2015-Ohio-2276.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

---

JOURNAL ENTRY AND OPINION  
No. 102158

---

**STATE OF OHIO**

PLAINTIFF-APPELLEE

vs.

**DANNY DOZANTI**

DEFENDANT-APPELLANT

---

**JUDGMENT:  
REVERSED**

---

Criminal Appeal from the  
Cuyahoga County Court of Common Pleas  
Case No. CR-90-252850-A

**BEFORE:** S. Gallagher, J., Keough, P.J., and McCormack, J.

**RELEASED AND JOURNALIZED:** June 11, 2015

**ATTORNEYS FOR APPELLANT**

Steven L. Bradley  
Michael I. Marein  
Marein and Bradley  
222 Leader Building  
526 Superior Avenue  
Cleveland, OH 44114

**ATTORNEYS FOR APPELLEE**

Timothy J. McGinty  
Cuyahoga County Prosecutor  
By: Frank Romeo Zeleznikar  
Assistant Prosecuting Attorney  
Justice Center - 9th Floor  
1200 Ontario Street  
Cleveland, OH 44113

SEAN C. GALLAGHER, J.:

{¶1} Appellant Danny Dozanti appeals the trial court's decision that denied his motion for relief from weapons disability. Upon review, we reverse the decision of the trial court.

{¶2} In 1990, appellant was arrested after a search warrant was executed at his business, Liberty Auto Body. He was indicted on three counts of trafficking in drugs and one count of possessing criminal tools. His initial convictions, which were on two counts of trafficking in drugs, were vacated. Appellant was ultimately convicted of one count of trafficking in drugs, a felony of the third degree, and was sentenced in 1995 to 18 months in prison with credit for time served.

{¶3} Many years later, in 2010, appellant filed a motion for relief from weapons disability. No action was taken on that motion, and appellant refiled his motion on October 3, 2013. The state filed a brief in opposition to the motion, and a hearing was held by the trial court on February 7, 2014.

{¶4} The transcript of the hearing reflects that appellant is still the owner of the business where the trafficking occurred, which is now operated under another business name. Appellant served his sentence for the criminal conviction and was released from prison in 1995. He has been a law-abiding citizen for over 20 years. He is married, has three children, and has seven grandchildren. He testified that part of the reason he wished to possess a firearm was to hunt. He went hunting "as a kid" and desires to do so with his grandchildren. Appellant's former defense counsel testified that they developed

a friendship after appellant's release from prison and that they had remained friends. He testified to appellant's honesty, responsibility, and integrity, and described appellant as "a really good family guy."

{¶5} The trial court did not issue a ruling from the bench, but took the matter under advisement. Eight months later, after a letter was sent requesting a ruling, the trial court issued a ruling denying the motion without explanation. This appeal followed.

{¶6} Under his sole assignment of error, appellant claims the trial court acted arbitrarily and abused its discretion by denying his motion. He argues he affirmatively demonstrated that he satisfied all statutory requirements, there was no evidence to justify the denial of relief from weapons disability, and the trial court failed to offer any findings or determinations to justify its decision.

{¶7} R.C. 2923.13 provides in relevant part:

(A) Unless relieved from disability under operation of law or legal process, no person shall knowingly acquire, have, carry, or use any firearm or dangerous ordnance, if any of the following apply: \* \* \*

(3) The person is under indictment for or has been convicted of any felony offense involving the illegal possession, use, sale, administration, distribution, or trafficking in any drug of abuse \* \* \*.

{¶8} R.C. 2923.14 provides that where a person is prohibited from acquiring, having, carrying, or using firearms, that person may apply to the court of common pleas for relief from such disability. Once a proper application is filed, the court, upon hearing, may grant the application if the following requirements are met:

(1) One of the following applies:

(a) If the disability is based upon an indictment, a conviction, or an adjudication, the applicant has been fully discharged from imprisonment, community control, post-release control, and parole, or, if the applicant is under indictment, has been released on bail or recognizance.

(b) If the disability is based upon a factor other than an indictment, a conviction, or an adjudication, that factor no longer is applicable to the applicant.

(2) The applicant has led a law-abiding life since discharge or release, and appears likely to continue to do so.

(3) The applicant is not otherwise prohibited by law from acquiring, having, or using firearms.

R.C. 2923.14(D).

{¶9} The record reflects that appellant satisfied the requirements of R.C. 2923.14 for relief from weapons disability. Although the trial court retains discretion to grant such relief, its decision must be supported by the record. Here, appellant demonstrated that he met the statutory requirements. He has led a law-abiding life for over 20 years, and he provided a legitimate basis for his request. There is nothing in the record, other than the obvious history that appellant was involved with trafficking in drugs roughly 25 years earlier and still owned the business where those events occurred, that would support the denial of the motion.

{¶10} We are conscious that this is a seasoned and thoughtful jurist, and we do not take lightly our decision to find an abuse of discretion. Although findings and reasons are not required by the statute, the record must in some form support the trial court's denial. Where there is nothing since 1995 reflected in the record to support the trial

court's decision to deny the request for which it gave no reason, we can only conclude the trial court acted arbitrarily in denying the motion.

{¶11} Insofar as the state cites to this court's decision in *State v. Brown*, 8th Dist. Cuyahoga No. 94213, 2010-Ohio-2360, that case is distinguishable. In *Brown*, an abuse of discretion was not demonstrated where the applicant had more than one conviction and had committed a crime of violence, and the trial court provided its rationale for denying the application for relief from disability. *Id.*

{¶12} Under the circumstances of this case, we agree with the logic expressed in *In re Bush*, 10th Dist. Franklin No. 89AP-567 (Dec. 26, 1989), wherein the court stated as follows:

Although R.C. 2923.14 provides that the trial court *may* grant the application for relief if the applicant meets all of the statutory criteria, the trial court abused its discretion in not granting appellant's request for relief from disability in this case. There is nothing in the record before us on which the trial court could base its decision other than an arbitrary determination that this particular applicant should not receive the requested relief. R.C. 2923.14 was enacted to provide a procedure whereby a person could secure partial relief from his disability based on his good behavior. See Committee Comment to R.C. 2923.14. The evidence in the record shows that appellant has led an exemplary life since his discharge from imprisonment, and has not had any altercations whatsoever with the law since 1980.

Consequently, because there is nothing in the record on which the trial court could determine that appellant's request for disability should be denied, the trial court abused its discretion in refusing to grant appellant relief.

(Emphasis sic.)

{¶13} Similarly, in this case, because there is nothing in the record from which the trial court could determine that appellant's request for disability should be denied, we find the trial court abused its discretion by denying appellant's motion.

{¶14} Judgment reversed.

It is ordered that appellant recover from appellee 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 common pleas 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.

SEAN C. GALLAGHER, JUDGE

KATHLEEN ANN KEOUGH, P.J., and  
TIM McCORMACK, J., CONCUR