

STATE OF OHIO)
)ss:
COUNTY OF SUMMIT)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

STATE OF OHIO

C.A. No. 27484

Appellee

v.

ROBERT M. RALICH

APPEAL FROM JUDGMENT
ENTERED IN THE
STOW MUNICIPAL COURT
COUNTY OF SUMMIT, OHIO
CASE No. 4763

Appellant

DECISION AND JOURNAL ENTRY

Dated: April 15, 2015

HENSAL, Presiding Judge.

{¶1} Robert Ralich appeals the judgment of the Stow Municipal Court denying his motion to seal his misdemeanor convictions. For the reasons set forth below, we affirm.

I.

{¶2} Mr. Ralich pleaded guilty to possession of drug paraphernalia, resisting arrest, and two traffic violations. The trial court fined Mr. Ralich and imposed a jail term. The court suspended the jail time on the condition that Mr. Ralich obey all laws for two years.

{¶3} Approximately two years after pleading guilty, Mr. Ralich applied for the court to seal his record pursuant to Revised Code Section 2953.32. During the hearing on the motion, the trial court noted that Mr. Ralich had initially been charged with a felony and expressed surprise that the State had permitted him to plead to reduced charges. At the end of the hearing, the trial court stated that it wanted to “review the police reports.” The trial court subsequently issued its decision denying Mr. Ralich’s request to seal his records.

{¶4} Mr. Ralich has appealed, raising two assignments of error for our review. For ease of discussion, we address them together.

II.

ASSIGNMENT OF ERROR I

THE TRIAL COURT ABUSED ITS DISCRETION WHEN IT FAILED TO DETERMINE THAT ROBERT RALICH HAS BEEN REHABILITATED.

ASSIGNMENT OF ERROR II

THE TRIAL COURT ABUSED ITS DISCRETION WHEN IT FAILED TO WEIGH THE INTERESTS OF ROBERT RALICH IN HAVING HIS RECORD SEALED AGAINST THE LEGITIMATE INTERESTS OF THE STATE, IF ANY, IN MAINTAINING HIS RECORD.

{¶5} Mr. Ralich argues on appeal that the trial court abused its discretion when it denied his request to seal his records pursuant to Section 2953.32. Specifically, Mr. Ralich argues that the trial court committed reversible error when it concluded that he was not rehabilitated and, therefore, that his interests in having his record sealed did not outweigh the State's interests in maintaining the records.

{¶6} Pursuant to Section 2953.32(C)(1), upon an offender applying to have his or her records sealed, the court shall (1) determine whether the offender is an eligible offender; (2) determine whether any criminal proceedings are pending against the offender; (3) determine whether the offender “has been rehabilitated to the satisfaction of the court;” (4) consider the reasons submitted by the prosecutor, if any, for not sealing the records; and (5) “[w]eigh the interests of the applicant in having the records pertaining to the applicant’s conviction or bail forfeiture sealed against the legitimate needs, if any, of the government to maintain those records.” “[A] court may seal an offender’s conviction record ‘only when all requirements for eligibility are met.’” *State v. Radcliff*, ___ Ohio St.3d ___, 2015-Ohio-235, ¶ 15, quoting *State v.*

Boykin, 138 Ohio St.3d 97, 2013-Ohio-4582, ¶ 11. Furthermore, the trial court's balancing of the applicant's interests with the government's interest is reviewed for an abuse of discretion. See *State v. Betleski*, 9th Dist. Lorain No. 13CA010515, 2014-Ohio-4262, ¶ 6. An abuse of discretion indicates that the trial court's decision is unreasonable, unconscionable or arbitrary. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983).

{¶7} The parties agreed that Mr. Ralich was an eligible offender and that there were no charges pending against him. However, the prosecutor objected to the sealing of the records, arguing that, because Mr. Ralich had originally been charged with assaulting a police officer, the State had a strong interest in maintaining the records. In its decision following the hearing, the trial court wrote, "Here, it would appear that the defendant either accepts no responsibility for his criminal acts or suffers from delusional episodes both at the time of the offenses and even now. In either situation, I cannot find rehabilitation as contemplated by the statutes." The court further determined that, because Mr. Ralich was not rehabilitated, "the government's interest in maintaining the record of conviction and dismissals outweighs the applicant's interest."

{¶8} Mr. Ralich argues on appeal that the trial court should have found that he was rehabilitated and that "[n]owhere in the [j]udge's [o]pinion was there ever a determination made by the [t]rial [c]ourt that [Mr.] Ralich was not rehabilitated." It is unclear why Mr. Ralich suggests that the trial court did not make a finding about his rehabilitation; as recounted above, the trial court did make such a finding in its judgment entry denying the application to seal. Furthermore, Mr. Ralich has not challenged the trial court's findings that he accepts no responsibility for the incident or that he suffers from delusions. At the hearing on his motion to seal, he denied responsibility for the incident, instead claiming that his behavior was caused by second hand smoke from a hitchhiker's drugs. Under these circumstances, he has not explained

why the court should have found that he was rehabilitated despite his denying responsibility. *See* App.R. 16(A)(7). *Compare with State v. Brooks*, 2d Dist. Montgomery No. 25033, 2012-Ohio-3278, ¶ 21-28 (discussing cases involving an offender demonstrating rehabilitation while denying guilt).

{¶9} Under the facts of this case and given the limited argument on appeal, we cannot conclude that the trial court committed reversible error when it determined that Mr. Ralich did not satisfy the rehabilitation requirement of the statute. Because Mr. Ralich did not meet all the requirements of Revised Code Section 2953.32(C), the trial court did not abuse its discretion in denying his application to seal his records. *See Radcliff*, ___ Ohio St.3d ___, 2015-Ohio-235, at ¶ 15.

{¶10} Accordingly, Mr. Ralich's assignments of error are overruled.

III.

{¶11} Mr. Ralich's assignments of error are overruled, and the judgment of the Stow Municipal Court is affirmed.

Judgment affirmed.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Stow Municipal Court, County of Summit, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the

period for review shall begin to run. App.R. 22(C). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

JENNIFER HENSAL
FOR THE COURT

WHITMORE, J.
MOORE, J.
CONCUR.

APPEARANCES:

PAUL H. HENTEMANN, Attorney at Law, for Appellant.

NICOLE M. WELSH, Attorney at Law, for Appellee.