

**IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
ASHTABULA COUNTY**

STATE OF OHIO,

Plaintiff-Appellee,

- vs -

THERSEA R. SWIFT
a.k.a. THERESA SWIFT,

Defendant-Appellant.

CASE NOS. 2025-A-0067
2025-A-0068
2025-A-0069

Criminal Appeals from the
County Court, Eastern Division

Trial Court Nos. 2004 CRB 00093 E
2022 CRB 00243 E
2018 CRB 00314 E

OPINION AND JUDGMENT ENTRY

Decided: September 14, 2026

Judgment: Affirmed

April R. Grabman, Ashtabula County Prosecutor, and *Dane R. Hixon*, Assistant Prosecutor, 25 West Jefferson Street, Jefferson, OH 44047 (For Plaintiff-Appellee).

Margaret Brunarski, Ashtabula County Public Defender, and *Phillip L. Heasley*, Assistant Public Defender, 22 East Jefferson Street, Jefferson, OH 44047 (For Defendant-Appellant).

SCOTT LYNCH, J.

{¶1} Defendant-appellant, Thersea Swift, appeals from the judgments of the Ashtabula County Court, Eastern Division, denying her motions to seal. For the following reasons, we affirm the decision of the lower court.

{¶2} In Ashtabula County Court, Eastern Division Case No. 2004 CRB 00093, Swift was charged with Assault and ultimately entered a plea of no contest to Aggravated Disorderly Conduct, a misdemeanor of the fourth degree, in violation of R.C.

2917.11(A)(1) and (E)(3)(a) on July 14, 2004. She was given a suspended jail sentence and completed community service in 2006 to satisfy fines and costs.

{¶3} In Case No. 2018 CRB 00314, Swift was charged with Cruelty to Animals and Confinement or Restraint of a Dog, i.e., the failure to restrain a dog, an unclassified misdemeanor, in violation of R.C. 955.22. On October 28, 2019, she entered a guilty plea to the Confinement charge and the Cruelty to Animals charge was dismissed.

{¶4} In Case No. 2022 CRB 00243, Swift was charged with two counts of Cruelty to Companion Animals. On March 1, 2023, the trial court issued a judgment entry dismissing the case on the motion of the State.

{¶5} On August 22, 2025, Swift filed a motion to seal records in each of the foregoing cases. Therein, she stated that she had no pending charges, had been rehabilitated, and contended that the record should be sealed because “she is enrolled in classes and looking for employment in the medical field.” The State did not file anything in opposition.

{¶6} On November 24, 2025, the court held a hearing on the motions. The court inquired whether the State had an opinion and the prosecutor stated: “the physical filing did not come to me” but noted that it appeared the defendant has been “taking steps to become . . . an active member of society and caring for animals moving forward, so the State is not going to oppose the sealing of this particular record.” In response to the court’s inquiry regarding Swift’s reasons for seeking the sealing of the record, she stated: “I’m attending veterinary technical, be a vet’s assistant [at] Penn Foster . . . It’s online through Ohio - - I’m going through OhioMeans, through the Wheel of Funding project; and I’m also in school right now for remote, ah, homework, and I’m maintaining 96 percent. I

got two weeks to graduate on that.” The court responded: “I just have concerns about your record here. Not only . . . have you been convicted of or been accused and failed with . . . respect to treatment of animals, confinement of animals, but you also have crimes of violence. I don’t know that if you complete all these programs and classes you’re doing, that anyone’s going to hire you.” She responded that this was why she sought sealing of her record. The court responded:

Well I would have thought about it before I started accomplishing all those things. You are not someone who exhibits the personality and the character that should be in charge of caring for animals I don’t think at all.

And if these things had been from 20 years in your past and there had been nothing in between I would think about it but . . . According to the statutes, I guess according to your lawyers, you qualify but it is in the Court’s discretion and I know that in dealing with you in past court hearings and with the . . . is this the one where she smacked the daughter and knocked her tooth out? Yeah.

She responded: “I didn’t knock her tooth out. . . And I got custody of my kids back.” The court then denied the motion.

{¶7} On November 24, 2025, the court filed a prepared Judgment Entry containing reasons for granting the motion, with the signature line stamped “denied.” On appeal, this court remanded due to the trial court’s failure to sign the entry. On January 30, 2026, the trial court issued an entry, which stated that the matter had come before the court for a hearing on the motion to seal, at which counsel for both sides was present. It concluded: “For the reasons stated on the record, the Motion to Seal the Defendant’s record is hereby denied.”

{¶8} On appeal, Swift raises the following assignment of error:

{¶9} “The court erred by denying appellant’s Motions to Seal Record.”

{¶10} In her sole assignment of error, Swift argues that the trial court failed to follow the law in ruling on her motions to seal: “[i]f the judge was even aware of the balancing test between the public interest and the defendant’s need for privacy . . . it is certainly not apparent by the record.” Although Swift argues the court did not apply the balancing test, she does not cite any of the specific factors in the test.

Motions to Seal Under R.C. 2953.32 and 2953.33

{¶11} Before addressing Swift’s arguments, we initially note that the present matter consists of different types of cases: 2004 CRB 00093, wherein Swift pled to a lesser offense than the one for which she was charged; 2018 CRB 00314 wherein she pled guilty to one charge and the other was dismissed; and 2022 CRB 00243 where Swift was charged with two counts but the case was dismissed. The applicable factors to consider on a motion to seal depend upon the disposition of the charges.

{¶12} An offender who is “convicted” can apply to the sentencing court for sealing “of the record of the case” under R.C. 2953.32. Pursuant to R.C. 2953.33(A)(1), a person can apply for sealing of the record where he or she is found not guilty or where the complaint or indictment was dismissed. R.C. 2953.33 does not permit the sealing of records of “individual counts that were dismissed from an indictment” but applies to cases where the complaint or indictment is dismissed. *State v. G.K.*, 2022-Ohio-2858, ¶ 27. In the present matter, 2004 CRB 00093 and 2018 CRB 00314 would fall under R.C. 2953.32 while 2022 CRB 00243 would fall under R.C. 2953.33 since it involves the dismissal of the entire complaint. While Swift requested relief under R.C. 2953.32, there is no question she sought to have the record sealed in each case and we will consider the appropriate legal standards for such relief.

{¶13} Under R.C. 2953.32(B)(1), “an eligible offender may apply to the sentencing court . . . for the sealing or expungement of the record of the case that pertains to the conviction, except for convictions listed in division (A)(1).” R.C. 2953.32(A)(1) provides a list of offenses to which the section does not apply such as, inter alia, offenses of violence, sexually-oriented offenses, and first or second degree-felony offenses.

{¶14} Trial courts apply a two-step analysis when determining whether to grant an application to seal. *State v. T.W.C.*, 2025-Ohio-2890, ¶ 9. First, the trial court “determines whether the offender is an ‘eligible offender,’ including whether the offender has waited the requisite time before filing.” (Citation omitted.) *Id.* Second, it “weighs a number of substantive considerations for and against the sealing.” (Citation omitted.) *Id.*

{¶15} “R.C. 2953.32(D)(1) requires a trial court to assess the same seven factors before granting an application for record sealing or expungement.” *State v. N.S.*, 2025-Ohio-5166, ¶ 20 (1st Dist.). Pursuant to R.C. 2953.32(D)(1), a court shall (a) determine whether the application is pursuing sealing of a prohibited crime and was made in the specified time period; (b) determine whether criminal proceedings are pending against the applicant; (c) determine whether the applicant has been rehabilitated to the court’s satisfaction; (d) consider any objections to the application advanced by the prosecutor; (e) consider any objections raised by the victim; (f) “[w]eigh the interests of the applicant in having the records pertaining to the applicant’s conviction . . . sealed . . . against the legitimate needs, if any, of the government to maintain those records”; and (g) consider any oral or written victim statements. If the court finds that all of these factors are met in favor of the applicant, it “shall order all official records of the case that pertain to the conviction . . . sealed.” R.C. 2953.32(D)(2)(a).

{¶16} For the sealing of the record pursuant to R.C. 2953.33(B)(2), the trial court is required to determine that the matter is brought in compliance with time guidelines, determine whether criminal proceedings are pending, consider any objections by the prosecutor, consider any conditions relating to a pardon, and “weigh the interests of the person in having the official records pertaining to the case sealed . . . against the legitimate needs, if any, of the government to maintain those records.”

Standard for Reviewing Motions to Seal

{¶17} We recognize the discretion that must be afforded to the trial court and the subjective nature of the factual determinations underlying a ruling on a motion to seal. *State v. Hamilton*, 1996-Ohio-440, ¶ 15. Decisions regarding the trial court’s ruling on motions to seal are generally reviewed for an abuse of discretion. *State v. C.J.R.*, 2025-Ohio-2477, ¶ 9 (11th Dist.), citing *State v. Miller*, 2023-Ohio-2651, ¶ 13 (11th Dist.). An abuse of discretion is the trial court’s “failure to exercise sound, reasonable, and legal decision-making.” *State v. Beechler*, 2010-Ohio-1900, ¶ 62 (2d Dist.), quoting *Black’s Law Dictionary* (8th Ed. 2004). The Ohio Supreme Court recently reaffirmed that deference in *State v. J.B.*, 2026-Ohio-1405, holding that an appellate court conducting abuse-of-discretion review “is not free to substitute its judgment for that of the trial judge.” *Id.* at ¶ 13, quoting *Berk v. Matthews*, 53 Ohio St.3d 161, 169 (1990).

{¶18} However, the trial court’s decision must not be “made without ‘consideration of or regard for facts or circumstances.’” *J.B.* at ¶ 13, quoting *State v. Beasley*, 2018-Ohio-16, ¶ 12. Accordingly, a trial court must “provide sufficient information in its decision to enable a reviewing court to ascertain whether it [had] considered *all matters* that must be evaluated and whether it [had] applied the correct tests under the statute.” (Emphasis

sic.) *State v. N.C.*, 2022-Ohio-781, ¶ 11 (9th Dist.). As this court recently explained in *State v. M.J.*, 2026-Ohio-2464 (11th Dist.): “Where, as in *J.B.*, the trial court recites the underlying facts of the conviction, identifies a specific governmental interest tied to the record, and articulates a reasoning process connecting the two, the reviewing court must defer. Where the trial court does not do so, the abuse-of-discretion standard—even as reaffirmed in *J.B.*—does not require an appellate court to supply a reasoning process that was never reduced to the record.” *Id.* at ¶ 17.

Application of R.C. 2953.32 Factors

{¶19} In relation to the review of the motions in 2004 CRB 00093 and 2018 CRB 00314 under R.C. 2953.32, most of the factors are not subject to dispute based on the face of the record, whether discussed specifically by the trial court or not. It is not questioned that the offenses were eligible for sealing and the applications were filed under the appropriate time period, or that there were no pending criminal proceedings. R.C. 2953.32(D)(1)(a) and (b). As to factors (d), (e), and (g)—prosecutor’s objections, victims’ objections, and any oral or written victim statements—no objections were filed and no victim statements were made. Further, the State conceded that it did not object to sealing, although it now contends that this was based on the fact that it was initially unaware Swift sought employment as a veterinary tech based on her statements in the motion that she intended to work in the “medical field.” Nonetheless, we observe that “[t]he lack of objection on the part of the prosecutor does not relieve the trial court of its duty to weigh the governmental interest against the applicant’s interest.” *J.B.* at ¶ 17.

{¶20} As to factor (c), relating to rehabilitation, the court noted that the charges were not many years in the past (applicable to 2018 CRB 00314) and Swift had been

before the court in other matters. Finally, under factor (f), the court considered that some of the cases were initiated against Swift based on allegations of animal abuse and that she now seeks to have the record sealed because she is attending school to become a veterinary assistant. This court has found that “the public’s interest and ‘need to know’ of a defendant’s criminal record is a legitimate governmental interest to balance against the defendant’s interests.” *State v. Sass*, 2014-Ohio-4745, ¶ 22 (11th Dist.). Such an interest has been found where the record that a defendant seeks to seal relates to the danger posed to the public. For example, this court found that where the defendant used his position to commit a crime related to his profession, i.e., misuse of his position as a pharmacist, customers and employers had a need to be aware of this. *Id.* at ¶ 23. Similarly, here the court found that there was a public need to be aware of the crimes relating to animals given that Swift sought to gain employment as a vet assistant. Veterinary employers and pet owners using their services have a right to know if an employee who will be caring for their pet has convictions relating to animal offenses.

Review of Case No. 2018 CRB 00314

{¶21} Based on the foregoing review of the factors, we do not find that the trial court erred in denying the motion to seal in Case No. 2018 CRB 00314. In that case, Swift was charged with Cruelty to Animals and Confinement or Restraint of a Dog, entered a plea of guilty to the Confinement charge, and the Cruelty charge was dismissed. The trial court specifically took issue with the fact that the charges related to the lack of proper care toward animals and that Swift is seeking education and future employment dealing with animals. While the court did not specifically state this as the “governmental interest” factor, it is evident that this was the meaning of its reasoning. We find this distinguishable

from matters where the trial court failed to make sufficient findings to discern the rationale for its denial of the motion. See *M.J.*, 2026-Ohio-2464, at ¶ 21 (11th Dist.) (reversal required due to the failure of the trial court to articulate the basis for its finding that there was a government interest justifying denial of motion to expunge).

{¶22} Swift argues that the judge erred in denying the motion based solely on the nature of the offenses, citing *State v. Gaines*, 2019-Ohio-5003 (6th Dist.), for the proposition that trial courts “cannot categorically deny an application for expungement based solely on the nature of the offense.” (Citation omitted.) *Id.* at ¶ 17. However, “[a] court is not prohibited from mentioning or considering the nature of the offense as one factor amongst others.” *M.J.* at ¶ 11, 20 (“[t]he *J.B.* Court confirmed that a trial court may consider the nature of an applicant’s convictions when weighing the government’s interest”). As noted above, this is the type of case where the nature of her offenses is relevant to the governmental and public interest because her criminal conduct is directly relevant to her future employment. *Sass* at ¶ 23.

{¶23} Swift also contends that the trial court was incorrect in finding that she “failed” in her treatment of animals since she was not convicted of offenses relating to cruelty of animals. We disagree. The trial court judge, having handled multiple matters in which Swift was criminally charged and exhibiting familiarity with her, was clearly concerned that she had been charged with Cruelty to Animals on multiple occasions. While Cruelty to Animals charges were dismissed, she remained convicted of an offense relating to appropriate care and control of animals, the failure to restrain a dog which impacts the overall safety of individuals as well as other animals. We further note that, even where a defendant has been acquitted of criminal charges, courts have considered

the underlying conduct relating to such offenses in determining whether to grant or deny an application for sealing or expungement. See *State v. Grove*, 29 Ohio App.3d 318, 320 (1st Dist. 1986) (the court, which presided over the trial and proceedings leading to acquittal, “was in the best position to determine whether . . . the interest of the state in maintaining the records of the case outweighed the appellant’s interest in having the records sealed”); *State v. Haney*, 70 Ohio App.3d 135, 139 (10th Dist. 1991).

{¶24} The trial court further noted that not a long time had passed since these offenses occurred which tends to demonstrate it questioned Swift’s rehabilitation, particularly in light of its comments relating to her criminal record. This lends additional support that its decision was not an abuse of discretion. While Swift takes issue with the court acting as a “prophet” to determine whether she would remain unemployable, the court’s statements were merely a summary of its concerns regarding the offenses with which Swift was charged, both the number and type as they relate to her chosen career path. This did not constitute reversible error given the deference to the trial court in this type of case.

{¶25} Finally, Swift argues that the court erred in denying the motion because it was “utterly unaware” of the disposition of the cases and not informed on the facts leading to its judgments. However, while she contends the court was unaware of the animal cruelty cases being dismissed, the court specifically stated that she had been “convicted of *or been accused*” of offenses relating to her treatment of animals, indicating awareness that not all of the charges resulted in convictions.

Review of Case No. 2004 CRB 00093

{¶26} Initially, we observe that the government interest concerns relating to

seeking a career in the animal field are not relevant in this case, which arose from a charge for Assault and resulted in a plea to Aggravated Disorderly Conduct. The court's denial relating to this case appears to be based on its analysis of a lack of rehabilitation given her record of crimes of violence and repeated contacts with the trial court.

{¶27} This lack of rehabilitation is supported by the trial court's question regarding whether Swift's offense of violence related to "knocking a tooth out." Swift contends that the court did not go into further detail about this offense, it was "vehemently denied" by Swift, and such case "never, apparently, went to trial." There is a lack of evidence to show that the court abused its discretion in regard to this case. As a matter of public record, a case involving these facts referenced by the court did go to trial in 2022. In *State v. Swift*, 2022-Ohio-2283 (11th Dist.), Swift was convicted of Endangering Children and Domestic Violence following a trial where there was testimony that Swift punched her daughter, resulting in a broken tooth. *Id.* at ¶ 7. We do not find the court abused its discretion in recognizing continuing crimes by Swift relating to violence which would demonstrate a lack of rehabilitation.

{¶28} While it is accurate that the Assault charge was dismissed, Swift was still convicted of a crime arising from "[e]ngaging in fighting, in threatening harm . . . or in violent or turbulent behavior." R.C. 2917.11(A)(1). It was reasonable of the court to consider the charge, conviction, and subsequent offenses in determining the entirety of the circumstances did not warrant sealing the record in this case.

Review of Case No. 2022 CRB 00243

{¶29} As to this case, Swift was charged with two counts of Cruelty to Companion Animals and the case was ultimately dismissed. Under R.C. 2953.33, the trial court can

deny a motion to seal the records relating to the dismissed complaint after considering the relevant factors, including the interest of the government in having the record sealed. For the reasons discussed above, the court could exercise its discretion to find the government interest in having records relating to cruelty to animals sealed where the defendant sought employment as a veterinarian assistant.

{¶30} The fact that the charges were dismissed did not preclude consideration of the conduct related to the offenses charged. *Grove*, 29 Ohio App.3d at 320 (1st Dist.); *Haney*, 70 Ohio App.3d at 139 (10th Dist.). While Swift emphasizes that these charges were dismissed, R.C. 2953.33 does not automatically allow for the sealing of all charges are dismissed; otherwise there would be no need for the trial court to be granted discretionary authority to deny a motion to seal. “We do not choose to set forth a rule whereby the trial court must grant the application of every criminal defendant who becomes eligible to apply for” sealing of the record. *Haney* at 139.

{¶31} We recognize that in the recent case of *State v. Welker*, 2026-Ohio-3293 (11th Dist.), this court reversed the trial court’s denial of a motion to seal on the grounds that the record did not reflect the trial court considered the statutory requirements under R.C. 2953.33 and that it relied upon a lack of rehabilitation, a factor not contained in R.C. 2953.33. The present decision is consistent with *Welker* since it is factually distinguishable. Here, while the lower court similarly did not delineate its consideration of each factor under R.C. 2953.33, it did not rely on rehabilitation as the ground for denial of the motion nor did it fail to consider the government interest ground. It is evident the trial court’s denial of Swift’s motion on these offenses was based on the governmental interest in the public being aware of such offenses, as discussed above, an appropriate

and required factor for consideration under R.C. 2953.33. As this court held in *Welker*, reversal is not warranted where “the record before this court clearly indicates that the trial court did not find all of the prongs” in favor of the defendant. *Id.* at ¶ 37.

{¶32} The sole assignment of error is without merit.

{¶33} For the foregoing reasons, the judgment of the lower court, denying Swift’s motions to seal, is affirmed. Costs to be taxed against appellant.

JOHN J. EKLUND, J.,

ROBERT J. PATTON, J.,

concur.

JUDGMENT ENTRY

For the reasons stated in the Opinion of this court, the assignment of error is without merit. The order of this court is that the judgment of the Ashtabula County Court, Eastern Division, is affirmed.

Costs to be taxed against appellant.

JUDGE SCOTT LYNCH

JUDGE JOHN J. EKLUND,
concur

JUDGE ROBERT J. PATTON,
concur

THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY
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A certified copy of this opinion and judgment entry shall constitute the mandate pursuant to Rule 27 of the Ohio Rules of Appellate Procedure.
