

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

STATE OF OHIO, :
 :
 Plaintiff-Appellant, :
 : No. 112050
 v. :
 :
 SHARON WILLIAMS, :
 :
 Defendant-Appellee. :

JOURNAL ENTRY AND OPINION

JUDGMENT: REVERSED AND REMANDED
RELEASED AND JOURNALIZED: July 13, 2023

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-21-659031-A

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Tasha L. Forchione and Owen Knapp, Assistant Prosecuting Attorneys, *for appellant*.

Cullen Sweeney, Cuyahoga County Public Defender, and Jonathan Sidney and Erika B. Cunliffe, Assistant Public Defenders, *for appellee*.

FRANK DANIEL CELEBREZZE, III, P.J.:

{¶ 1} Appellant state of Ohio (“state”) challenges the judgment of the Cuyahoga County Court of Common Pleas granting appellee Sharon Williams’s (“Williams”) motion to dismiss indictment based upon collateral estoppel and/or

res judicata. After a thorough review of the applicable law and facts, we reverse the judgment of the trial court and remand this matter for further proceedings.

I. Factual and Procedural History

{¶ 2} Williams was charged with cruelty to animals based upon a video that she took wherein a juvenile, S.V., was holding a domestic short-haired tabby cat by the scruff of its neck under a running bath faucet, which simulated drowning.¹ Williams can be heard on the video laughing and directing S.V. to “hold her down” while the cat screams and struggles to grab onto the faucet.

{¶ 3} The video also depicts S.V. holding the cat several feet in the air under a running shower faucet, once again simulating drowning. S.V. then drops the cat from mid-air into the tub two separate times. S.V. and Williams can be heard laughing throughout these actions. Williams also asks S.V. if she is going to drown her like she did to “Petra,” which is presumably another cat.

{¶ 4} Williams posted the video to social media platform Snapchat for anyone in the public to see. A former friend of Williams, Lismary Camacho, viewed the video on Williams’s Snapchat story. Camacho was a veterinary technician and sent the video to the Cleveland Animal Protective League (“APL”).

¹ Our recitation of the facts in this matter has been gleaned from Williams’s motion to dismiss and the state’s brief in opposition thereto. The facts set forth in those filings were presumably taken from S.V.’s case in the juvenile court, although neither party presented the juvenile court trial transcript to the trial court, and it is not a part of the record herein. To the extent that the underlying facts do not appear to be in dispute, we will utilize them in our review of this matter.

{¶ 5} A representative from the APL viewed the video and went to Williams's residence to investigate. When he came to the residence, the cat was fearful and hid under a bed and urinated. The cat was removed from the residence and taken to the APL.

{¶ 6} The video was also viewed by Dr. Allison Lash, a veterinarian with the APL. She stated that the way that S.V. was holding the cat was painful to it and that being dropped into the tub could have caused a broken bone or torn ligament. In addition, the tub was full of water and could have drowned the cat. She further stated that holding the cat under running water while it was immobilized caused the cat unnecessary suffering.

{¶ 7} Williams was charged with one count of cruelty to animals under R.C. 959.131(C), a felony of the fifth degree, and one count of cruelty to animals under R.C. 959.131(D)(1), a misdemeanor of the second degree.

{¶ 8} S.V. was charged in juvenile court under R.C. 959.131(C), a felony of the fifth degree if committed by an adult. A trial was held, and S.V. was found not delinquent by the court.

{¶ 9} Williams then moved to dismiss the indictment against her, arguing that the state was collaterally estopped from proving that she was complicit in animal cruelty because S.V. had been found not delinquent. She attached to her motion the journal entry finding S.V. not delinquent. The state opposed the motion, arguing that collateral estoppel did not apply because double jeopardy had not been implicated.

{¶ 10} Prior to commencement of trial, the court heard arguments from both sides on Williams’s motion to dismiss. The trial court found Williams’s motion to be meritorious and dismissed the indictment seemingly based upon the fact that the juvenile court had already determined that a crime did not occur in this matter.

{¶ 11} The state then filed the instant appeal, raising one assignment of error for our review:

The trial court erred in granting defendant’s motion to dismiss indictment based on collateral estoppel and/or res judicata.

II. Law and Argument

{¶ 12} In its sole assignment of error, the state argues that criminal collateral estoppel did not apply because double jeopardy had not been implicated since Williams was not a party to the juvenile court proceedings. Further, the state contends that the factual determinations in the juvenile matter were not binding on Williams’s case and that R.C. 2923.03, the complicity statute, recognizes that the acquittal of one participant of a criminal offense does not affect the prosecution of the accomplice. Finally, the state asserts that the trial court’s reliance on res judicata was erroneous because that principle has no bearing in criminal law.

{¶ 13} Under R.C. 2945.67(A), the state may appeal the dismissal of an indictment. A trial court’s dismissal of an indictment is generally reviewed for an abuse of discretion. *State v. Strong*, 8th Dist. Cuyahoga No. 100766, 2014-Ohio-4209, ¶ 7, citing *State v. Walton*, 8th Dist. Cuyahoga No. 87347, 2006-Ohio-4771, ¶ 4, and *State v. Tankers*, 8th Dist. Cuyahoga Nos. 72398 and 72399, 1998 Ohio

App. LEXIS 1724 (Apr. 23, 1998). However, when the dismissal was based upon a question of law such as here, we review the decision de novo. *State v. Troisi*, 169 Ohio St.3d 514, 2022-Ohio-3582, 206 N.E.3d 695, ¶ 17, citing *State v. Mutter*, 150 Ohio St.3d 429, 2017-Ohio-2928, 82 N.E.3d 1141, ¶ 13.

{¶ 14} Crim.R. 48, in general, does not provide authority or discretion to dismiss a criminal proceeding with prejudice unless “there is a deprivation of a defendant’s constitutional or statutory rights, the violation of which would, in and of itself, bar further prosecution.” *Troisi* at ¶ 40, quoting *State v. Mills*, 11th Dist. Trumbull Nos. 2020-T-0046 and 2020-T-0047, 2021-Ohio-2722, ¶ 6, *State v. Jones*, 2d Dist. Montgomery No. 22521, 2009-Ohio-1957, ¶ 13, and *State v. Sutton*, 64 Ohio App.2d 105, 108, 411 N.E.2d 818 (9th Dist.1979).

{¶ 15} Williams argued in the trial court that her prosecution would have violated the doctrine of collateral estoppel and due process. She asserted in her motion to dismiss that the facts of the case were litigated by the juvenile court and the juvenile court found that S.V. was not delinquent. She maintained that her prosecution is barred because she cannot be complicit to an act that did not amount to a crime, as determined by the juvenile court.

{¶ 16} Williams’s reliance on collateral estoppel is without merit.

Collateral estoppel is the doctrine that recognizes that a determination of facts litigated between two parties in a proceeding is binding *on those parties* in all future proceedings. Collateral estoppel “means simply that when an issue of ultimate fact has once been determined by a valid and final judgment, that issue cannot again be litigated between *the same parties* in any future lawsuit.[”]

(Emphasis added.) *State v. Lovejoy*, 79 Ohio St.3d 440, 443, 683 N.E.2d 1112 (1997), quoting *Ashe v. Swenson*, 397 U.S. 436, 443, 90 S.Ct. 1189, 25 L.Ed.2d 469 (1970).

{¶ 17} Williams was not a party to the prior action between the state and S.V. Thus, collateral estoppel does not bar the state from litigating the same issues in an action against Williams.

{¶ 18} For the same reasoning, res judicata also does not apply in this matter. While Williams did not raise the doctrine of res judicata in her motion, it appears from the transcript that the trial court may have relied upon it in dismissing the indictment. However, this reliance is misplaced; res judicata only applies to matters involving the same parties. *See State v. Hinzman*, 8th Dist. Cuyahoga No. 92767, 2010-Ohio-771, ¶ 63 (noting that a codefendant’s acquittal had no bearing on whether the jury in appellant’s case could have found that appellant committed the crime at issue), citing *State ex rel. Paneto v. Matos*, 10th Dist. Franklin No. 08AP-926, 2009-Ohio-4845, ¶ 30 (“Res judicata operates to preclude the relitigation of a point of law or fact that was issued in a former action between the same parties and which was passed upon by a court of competent jurisdiction.”); *State v. Adams*, 10th Dist. Franklin No. 09AP-141, 2010-Ohio-171, ¶ 25, quoting *Swihart v. Chairman/Chairperson of the Ohio Adult Parole Auth.*, 10th Dist. Franklin No. 08AP-222, 2008-Ohio-6420, ¶ 18 (“The doctrine of issue preclusion, a component of res judicata, ‘provides that an issue of fact that was fairly, fully, and necessarily

litigated and determined in a prior action may not be drawn into question in a subsequent action between the same parties or their privies.”).

{¶ 19} A trial in Williams’s case would not involve relitigation of facts and implicate res judicata because the same parties are not involved. Again, the juvenile case dealt solely with S.V., and Williams’s case pertained only to her.

{¶ 20} Finally, the state correctly notes that a complicity conviction does not require that the principal offender also be convicted. *State v. Lester*, 8th Dist. Cuyahoga No. 105992, 2018-Ohio-3041, citing *State v. Graven*, 52 Ohio St.2d 112, 369 N.E.2d 1205 (1977). R.C. 2923.03(B) states that “[i]t is no defense to a charge under this section that no person with whom the accused was in complicity has been convicted as a principal offender.”

{¶ 21} Williams urges us to rely upon subsection (C) of the statute, which states: “No person shall be convicted of complicity under this section unless an offense is actually committed * * *.” Williams argues that the juvenile court determined that no offense was committed; however, this determination related solely to S.V. and her case. The juvenile court’s finding that serious physical harm did not occur to the cat pertained only to the evidence presented in S.V.’s trial.

{¶ 22} There has been no trial in Williams’s case, and the state has not had the opportunity to present any evidence against her. In deciding whether Williams could be convicted, the trier of fact will be required to determine whether the offense of animal cruelty occurred and whether Williams was complicit in such a crime.

{¶ 23} Accordingly, there is no bar to prosecuting Williams, and the trial court erred in dismissing the indictment against Williams. The decision of the trial court is reversed, and this matter is remanded for further proceedings.

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.

FRANK DANIEL CELEBREZZE, III, PRESIDING JUDGE

EMANUELLA D. GROVES, J., CONCURS;
SEAN C. GALLAGHER, J., CONCURS (WITH SEPARATE CONCURRING
OPINION)

SEAN C. GALLAGHER, J., CONCURRING:

{¶ 1} I fully concur with the analysis provided in the majority opinion and agree that the trial court's dismissal of the indictment against Williams should be reversed. I further would reject appellee's argument advocating for application of nonmutual collateral estoppel in her criminal case, which followed after the bench trial in S.V.'s juvenile case. Appellee cites no authority to support such an application of nonmutual collateral estoppel in the criminal context at hand, and I

would reject the argument for similar reasons expressed by the Fourth District in *State v. Miller*, 4th Dist. Hocking No. 18CA3, 2019-Ohio-92, ¶ 16-23.