[Cite as *State v. R.L.*, 2026-Ohio-4286.]

COURT OF APPEALS OF OHIO

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

STATE OF OHIO,	:	
Plaintiff-Appellee,	:	No. 116143
v.	:	
R.L.,	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: October 29, 2026

Civil Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-19-636564-A

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Michael R. Wajda, Assistant Prosecuting Attorney, *for appellee*.

Cullen Sweeney, Cuyahoga County Public Defender, and Robert McCaleb, Assistant Public Defender, *for appellant*.

MICHAEL JOHN RYAN, P.J.:

{¶ 1} Defendant-appellant R.L. appeals from the trial court's January 20, 2026 judgment denying her third application to have her 2019 misdemeanor

aggravated-trespass and assault convictions expunged. After a thorough review of the facts and pertinent law, we affirm.

Factual and Procedural History

{¶ 2} In December 2018, R.L. was indicted on one count each of burglary, a second-degree felony, and assault, a first-degree misdemeanor. In July 2019, after negotiations with the State, R.L. pleaded guilty to aggravated trespass and assault as indicted; both charges were misdemeanors of the first degree. The State did not seek restitution. The trial court sentenced R.L. to a suspended 38-day jail term and one year of inactive community-control sanctions. The court ordered R.L. to not have any contact or communication with the victim.

{¶ 3} In November 2019, the trial court held a hearing on an alleged violation of the community-control sanctions. At the conclusion of the hearing, the court found R.L. to be in violation; the violation was the result of R.L. texting the victim despite the no-contact order the court had imposed. The trial court ordered R.L. to report to her probation officer in December 2019, and thereafter at a regular interval to be determined at the probation officer's discretion.

{¶ 4} In December 2023, R.L. filed her first application to expunge her record and conviction in this case. The trial court ordered the probation department to prepare an expungement investigation report. After the report was prepared, the State opposed R.L.'s application on two grounds. First, the investigation report revealed that R.L. had active warrants — one from Garfield Heights and one from Bergen County, New Jersey. Second, the State represented that it spoke with the

victim in the case who "objects to expungement and claims that she is still being bullied and harassed in the street by [R.L.] and her friends." The trial court set the matter for a hearing in March 2024.

{¶ 5} R.L.'s counsel appeared at the March 2024 hearing, but R.L. did not; her absence was unexplained. Defense counsel requested a continuance, which the trial court denied. The court deemed R.L.'s expungement application withdrawn for want of prosecution.

{¶ 6} In September 2024, R.L. filed her second application for expungement. In her application, R.L. stated, in part, that her "interest in expunging this record outweighs any interest the State would have in maintaining it." R.L. requested a hearing on her application. The trial court ordered another expungement investigation report from the probation department. When the report was completed, the State filed a brief in opposition to R.L.'s application.

{¶ 7} The State's opposition was based, in part, on reports from the victim that R.L. continued to "harass the victim by electronically posting about taking 'revenge' on her." The victim also expressed to the State that she believed justice was not done because, according to the victim, (1) R.L.'s codefendant was never apprehended; (2) she was never reimbursed for her property damage; and (3) R.L.'s family and friends continued online discussions of taking revenge against the victim.

{¶ 8} The State further noted that the expungement investigation report, prepared in October 2024, indicated that since the crimes in this case, R.L. had as many as six other criminal cases, including one case with a then-pending application

for expungement. According to the State, "Such lengthy history calls into question [R.L.'s] rehabilitative efforts."[1]

{¶ 9} The trial court set R.L.'s second expungement application for a hearing in November 2024. Again, defense counsel appeared at the hearing, R.L. did not, and her absence was unexplained. The application was "heard and submitted." On December 12, 2024, the trial court summarily denied R.L.'s application.

{¶ 10} On December 18, 2024, R.L. filed her third application for expungement. The third application mirrored, word-for-word, R.L.'s second application. The State filed a response to the third application. In its response, the State noted the victim's reports of threats to her made by R.L. and her family, but informed the court that it contacted the victim about R.L.'s third motion and did not receive a response. The State also reminded the court of the cases R.L. had after the conviction in this case. However, the State acknowledged that R.L. was an eligible offender and, given that, and the victim's lack of response, it had no opposition to the expungement application. In a January 23, 2025 judgment, the trial court summarily denied the application.

{¶ 11} R.L. appealed from the January 23, 2025 judgment denying her third application. R.L. raised two assignments of error, contending that (1) the trial court's decision was an abuse of discretion because the court failed to properly weigh the competing interests involved and its decision was not supported by the record,

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[1] Although the State acknowledged that outstanding court costs and fees do not render an otherwise eligible offender ineligible for expungement, it noted that, at the time of the filing of its brief in opposition, R.L. still owed $318.80 in court costs.

and (2) the trial court failed to articulate and create a record for this court to engage in meaningful appellate review. Finding the record incomplete, this court reversed the trial court's decision and remanded the case for the trial court to consider the statutory factors for expungement "in order to provide a complete record." *State v. R.L.*, 2025-Ohio-5138, ¶ 15 (8th Dist.).

{¶ 12} The trial court did not hold another hearing on remand. It issued the subject judgment denying R.L.'s third application for expungement on January 20, 2026. In its judgment, the trial court found that R.L. was an eligible offender for expungement under R.C. 2953.32. Regarding the hearing requirement under R.C. 2953.32(C), the trial court stated, "That was done in this case and the hearing was held on November 21, 2024." The trial court further found that the offenses were expungable, R.L.'s application was timely filed, and there were no pending criminal proceedings against R.L.

{¶ 13} Regarding whether R.L. had been rehabilitated, the trial court found that "[t]he evidence of records suggests she is not." In support of its finding, the court noted the criminal proceedings that had been initiated against R.L. since this case and stated, "This history hardly bespeaks a propensity to function in society without committing crimes."

{¶ 14} The trial court also considered the reason for the State's recitation of R.L.'s "other criminal matters," as well as the victim's allegation of continued harassment and threats of revenge by R.L. and her family. The court found the victim's allegations "more troubling than the other criminal allegations since the

conviction because it suggests that [R.L.] has no compunctions about the conduct that gave rise to the offenses in this case, i.e., that she believes she did nothing wrong."

{¶ 15} In weighing R.L.'s interest in sealing the record against the State's legitimate needs to maintain the record, the trial court stated that R.L. "did not articulate her interest in having the record sealed, and she did not appear at the hearing on her motion, so there is no testimony about the exact nature of her interest in having the record sealed." Consequently, the court found that R.L.'s "unarticulated interests have no weight and are thus outweighed by the government's legitimate need to maintain the record." Subsequently, R.L. appealed again, presenting the following assignments of error.

Assignments of Error

> I. The trial court abused its discretion when it denied R.L.'s motion for expungement because that decision failed to properly weigh the competing interests involved and is not supported by the record.
>
> II. The trial court failed to hold a hearing, not allowing R.L. to further explain her interests in expungement, violating R.C. 2953.32(C).

Law and Analysis

{¶ 16} R.L.'s two assignments of error raise interrelated issues that we will consider together.

{¶ 17} R.C. 2953.32(B)(1), governing the sealing or expungement of a conviction record, provides in relevant part that "an eligible offender may apply to the sentencing court if convicted in this state . . . for the sealing or expungement of

the record of the case that pertains to the conviction, except for convictions listed in division (A)(1) of this section." R.C. 2953.32(C) requires that upon the filing of a proper application for the sealing or expungement of a record by an eligible offender, the trial court must hold a hearing and make the requisite determinations and considerations under R.C. 2953.32(D)(1). The Supreme Court of Ohio has described the nature of the hearing as follows:

> At the hearing, the trial court determines whether the applicant is seeking to have eligible convictions sealed and whether the applicant has waited the appropriate period before applying. R.C. 2953.32(D)(1)(a). The court also determines whether the applicant has criminal charges pending. R.C. 2953.32(D)(1)(b). And the statute instructs the court to consider any objection by the State or a victim and any statement submitted by a victim. R.C. 2953.32(D)(1)(d), (e), and (g). The applicant must show [his or] her rehabilitation "to the satisfaction of the court," R.C. 2953.32(D)(1)(c), and that [his or] her interests in having [the] convictions sealed outweigh any governmental interest to maintain the records, R.C. 2953.32(D)(1)(f).

State v. J.B., 2026-Ohio-1405, ¶ 11.

{¶ 18} "'No court is ever required to seal [or expunge] conviction records.'" *Id.* at ¶ 12, quoting *State v. Aguirre*, 2014-Ohio-4603, ¶ 27. The decision whether to grant an application for the sealing or expungement of a record is within the discretion of the trial court. *J.B.* at *id.* Thus, our review of a trial court's decision on an application for sealing or expungement is for an abuse of discretion. *Id.* at ¶ 1. An abuse of discretion occurs when a court exercises its judgment in an unwarranted way regarding a matter over which it has discretionary authority. *Johnson v. Abdullah*, 2021-Ohio-3304, ¶ 35. In other words, "[a] court abuses its discretion

when a legal rule entrusts a decision to a judge's discretion and the judge's exercise of that discretion is outside of the legally permissible range of choices." *State v. Hackett*, 2020-Ohio-6699, ¶ 19.

{¶ 19} We consider the hearing requirement first, because it is potentially dispositive. The trial court previously held two hearings on R.L.'s first two applications for expungement; R.L. failed to appear at either hearing and provided no explanation for her absences. The trial court did not hold a hearing on R.L.'s third application (which was identical to her second application) prior to denying it. The denial of her third application led to R.L.'s first appeal on this matter. *R.L.*, 2025-Ohio-5138 (8th Dist.). This court's mandate on remand ordered the trial court to consider the statutory factors governing expungement in order to provide a complete record. *Id.* at ¶ 15. The mandate did not order the trial court to have another hearing; indeed, R.L. did not raise the issue in her first appeal. The trial court did what this court ordered; we find no violation of her right to a hearing.

{¶ 20} The second assignment of error is overruled.

{¶ 21} Turning to the substantive reasons for the trial court's denial of R.L.'s application, we are unable to find an abuse of discretion.

{¶ 22} As mentioned, the trial court was required, under R.C. 2953.32(D)(1), to do, in relevant part, the following:

> (a) Determine whether the applicant is pursuing sealing or expunging a conviction of an offense that is prohibited under division (A) of this section . . . and determine whether the application was made at the time specified in division (B)(1)(a) or (b) or division (B)(2)(a) or (b) of this

> section that is applicable with respect to the application and the subject offense;
>
> (b) Determine whether criminal proceedings are pending against the applicant;
>
> (c) Determine whether the applicant has been rehabilitated to the satisfaction of the court;
>
> (d) If the prosecutor has filed an objection in accordance with division (C) of this section, consider the reasons against granting the application specified by the prosecutor in the objection;
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> (e) If the victim objected, pursuant to the Ohio Constitution, consider the reasons against granting the application specified by the victim in the objection;
>
> (f) Weigh the interests of the applicant in having the records pertaining to the applicant's conviction or bail forfeiture sealed or expunged against the legitimate needs, if any, of the government to maintain those records[.]

R.C. 2953.32(D)(1).

{¶ 23} The trial court considered all the factors. It found that the offense was expungable and R.L.'s motion was filed on time. The court also found that R.L. did not have pending criminal proceedings against her.

{¶ 24} In considering the State and victim's positions on R.L.'s application, the trial court noted R.L.'s "other criminal matters" and the victim's report that R.L. continued to harass her. Regarding the "other criminal matters," R.L. contends that the trial court relied on accusations, rather than convictions. However, R.L. acknowledges that three of the "other criminal matters" — operating without a license, obstructing the administration of law (New Jersey), and breaking and

entering and assault — resulted in convictions. According to R.L., the operating without a license and obstructing the administration of law convictions are "minor, non-violent misdemeanors," which "standing alone" "do not constitute evidence under the statute's liberal-construction mandate to negate rehabilitation from a six-year-old misdemeanor aggravated trespass and assault arising from a 2018 incident." (Appellant's brief, p. 6-7).

{¶ 25} We recognize that trial courts are to apply a liberal construction of the expungement statute so as to promote the legislative purpose of allowing expungement. *Aguirre*, 2014-Ohio-4603, at ¶ 18. Nonetheless, expungement of a criminal record is an "act of grace created by the state." *State v. Hamilton*, 75 Ohio St.3d 636, 639 (1996). It should be granted only when all requirements for eligibility are met, because it is a "privilege, not a right." *State v. Futrall*, 2009-Ohio-5590, ¶ 6. No matter how minor the convictions may be that R.L. accumulated between this incident and her expungement application, they were relevant for the trial court's consideration.

{¶ 26} Further, R.L. is incorrect that the trial court improperly considered her breaking-and-entering and assault convictions because that record was expunged. R.C. 2953.32(D)(2)(b) specifically allowed the trial court to consider "a sealed record of prior conviction . . . ." Upon consideration of R.L.'s involvement with the law since her conviction in this case, the trial court found that her "history hardly bespeaks a propensity to function in society without committing crimes."

{¶ 27} Moreover, the trial court considered the victim's representation that R.L. and her family continued to harass and threaten her. The court found that "more troubling than the other criminal allegations since the conviction because it suggests that [R.L.] has no compunctions about the conduct that gave rise to the offense in this case, i.e., that she believes she did nothing wrong."

{¶ 28} Regarding the final consideration — a weighing of the defendant's interest in sealing the record against the government's legitimate needs to maintain the record — the trial court found that R.L.'s "unarticulated interests have no weight" and therefore the State's interest outweighed whatever interest she may have had.

{¶ 29} R.L. contends that because the State did not oppose her third application (i.e., the State acknowledged that R.L. was an eligible offender, but stated that because it was unable to get a response from the victim, it was not opposing the motion), the trial court acted "without a sound reasoning process" by "simply stat[ing] the government's need to maintain the record outweighs the applicant's interests." (Appellant's brief, p. 10).

{¶ 30} Regardless of whether an application for expungement is opposed or unopposed by the State, the statute places the burden on the applicant to demonstrate a need for sealing the record. *State v. Brown*, 2007-Ohio-5016, ¶ 4 (10th Dist.). R.L. failed to appear, without explanation, at the two hearings the trial court scheduled on her application. We disagree with R.L.'s assertion that the trial court "treated an unasserted governmental interest as automatically dispositive

since it determined her interests did not have weight." As mentioned, in order to seal the record of conviction, the trial court had to find that R.L. was an eligible offender with no criminal proceedings pending, that her interests were not outweighed by any legitimate governmental needs, *and* that her rehabilitation had "been attained to the satisfaction of the court." R.C. 2953.32(C)(2). The trial court did not abuse its discretion by finding that R.L. did not show that she had been rehabilitated. She offered nothing to demonstrate that, other than her conclusory statements tracking the language of the statute in her application. In contrast, the record before the trial court showed a lack of rehabilitation, as evidenced by R.L.'s other criminal matters since the conviction in this case and the victim's report of continual harassment from R.L. and her family.

{¶ 31} On this record, we are unable to find that the trial court abused its discretion by denying R.L.'s third expungement application. The first assignment of error is overruled.

{¶ 32} Judgment affirmed.

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 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.

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MICHAEL JOHN RYAN, PRESIDING JUDGE

EILEEN A. GALLAGHER, J., and
TIMOTHY W. CLARY, J., CONCUR