

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-090306
Plaintiff-Appellant,	:	TRIAL NO. B-9905385
vs.	:	<i>JUDGMENT ENTRY.</i>
RONNICE ROUSSEAU,	:	
Defendant-Appellee.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

The state of Ohio appeals from the April 2, 2009, entry of the trial court granting Ronnice Rousseau’s application for expungement of her criminal record.

Rousseau was convicted of theft in 1999 for failing to report her job and receiving a welfare check from September through December 1998. She applied to have this conviction expunged in March 2009 so that she could pursue a nursing career. The state objected to the expungment for the reason that Rousseau had been convicted of falsification in 1997 and, therefore, did not qualify under R.C. 2953.31 as a “first offender” who could apply for an expungement.

At the expungement hearing, Rousseau acknowledged her 1997 first-degree misdemeanor conviction, which was based on her use of a false name to avoid an

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

arrest on an outstanding warrant in November 1997. The trial court granted her application for expungement.

In its sole assignment of error, the state argues that the court erred by granting the expungement because Rousseau was not a first offender.

Only first offenders may be granted expungements under R.C. 2953.32. A “first offender” is defined in R.C. 2953.31 as “anyone who has been convicted of an offense in this state or any other jurisdiction and who previously or subsequently has not been convicted of the same or different offense in this state or any other jurisdiction.” But the court must treat two or more convictions as one conviction “where the convictions result from or are connected with the same act or result from offenses committed at the same time.”²

In this case, the trial court determined that Rousseau had committed her offenses “at the same time” and, therefore, that she had only one conviction. But the court’s finding was erroneous under the law because nine months had elapsed between the offenses.³ And Rousseau’s convictions did not result from, and were not connected to, the same act. Thus, Rousseau was not a “first offender” as defined in R.C. 2953.31. Accordingly, she was not entitled to have her record expunged under R.C. 2953.32.

We, therefore, sustain the assignment of error. The judgment of the trial court is reversed, and this cause is remanded with instructions to enter an order denying Rousseau’s application for expungement.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

² R.C. 2953.31(A).

³ See *State v. Cresie* (1993), 93 Ohio App.3d 67, 68-69, 637 N.E.2d 935.

OHIO FIRST DISTRICT COURT OF APPEALS

CUNNINGHAM, P.J., DINKELACKER and MALLORY, JJ.

To the Clerk:

Enter upon the Journal of the Court on February 3, 2010
per order of the Court _____.
Presiding Judge