

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

THE STATE OF OHIO	)	CASE NO. CR 02 432196
	)	
Plaintiff	)	JUDGE JOHN P. O'DONNELL
	)	
-vs-	)	<b><u>JOURNAL ENTRY</u></b>
	)	
DOUGLAS HERRMANN	)	
	)	
Defendant	)	

On November 9, 2002, Douglas Herrmann was at a bar in Cleveland's warehouse district. One of his friends started a fight and Herrmann joined in. Security at the bar was provided that night by patrol officer Dennis Wondrak of the Cleveland Police Department. When Wondrak tried to break up the fight he was punched and choked by Herrmann.

Herrmann was arrested and eventually charged with two counts of assault on a police officer in violation of O.R.C. §2903.13(C)(3), a fourth degree felony. This is the only time Herrmann has been charged with any crime, let alone a felony. On April 3, 2003, Herrmann pled guilty to count one and was eventually sentenced to a year of community control, which he completed without incident.

On June 10, 2008, Herrmann filed a motion to seal the record of this conviction pursuant to O.R.C. §2953.31, *et seq.* A hearing was held on the motion on October 2.

Sections 2953.31 and 2953.32 are designed to recognize that individuals with a single criminal infraction may be rehabilitated. *State v. Petrov* (1984), 15 Ohio App.3d 456. Douglas Herrmann is the kind of person the law was made for. He is a "first offender" as defined in §2953.31(A). And, judging by the available evidence, his conduct on the day of the offense was out of character. He has a steady professional job as a television video camera operator. He is

married and raising a family. This court has no doubt that he has been rehabilitated and the legitimate needs, if any, of the government to maintain the records of the conviction are outweighed by the defendant's interests in sealing the record of his anomalous conduct.

However, even where a defendant has been rehabilitated, O.R.C. §2953.36 precludes the sealing of a record of conviction for certain offenses. Those offenses include "convictions of an offense of violence" that are felonies. Here, the defendant was convicted of a fourth degree felony assault charge under O.R.C. §2903.13(C)(3). The assault statute is included as an "offense of violence" under O.R.C. §2901.01(A)(9)(a). Therefore, while the defendant surely qualifies for expungement as a matter of fact, as a matter of law he is not statutorily eligible to have his records sealed, and the motion is therefore hereby denied.

**IT IS SO ORDERED.**

Date: October \_\_\_\_\_, 2008

\_\_\_\_\_  
JOHN P. O'DONNELL, JUDGE

**CERTIFICATE OF SERVICE**

A copy of the aforementioned Journal Entry was mailed this \_\_\_\_\_ day of October, 2008, by U.S. Mail to the following:

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