

STATE OF OHIO)
)SS:
CUYAHOGA COUNTY)

IN THE COURT OF COMMON PLEAS

CASE NO. CR-431903

STATE OF OHIO)
)
Plaintiff)
vs.)
)
MARKETHA REED)
)
Defendant)

JOURNAL ENTRY

JOHN P. O'DONNELL, JUDGE:

The defendant has filed a motion to dismiss the indictment for escape on the grounds that, as a pre-Senate Bill 2 parolee, she is not subject to prosecution for escape under §2921.34 of the Revised Code because the March 17, 1998 amendment to Revised Code §2967.15 (including parolees within the definition of persons who could be prosecuted for escape) did not apply to her pursuant to §2967.021(A) of the Ohio Revised Code.

The prosecution has filed a brief in opposition citing various case authorities and legal arguments.

It must initially be noted that the facts of record are limited. The defendant's brief in support of her motion contains the following factual assertions unsupported by affidavits or other evidence but also uncontested by the prosecution: The defendant was convicted of an offense prior to July 1, 1996 and was placed on parole following her release from prison. The dates of her conviction and sentencing in the previous case, as well as the date of her release from prison, are not known. The indictment in this case does show a date of offense of August 12, 2002. Presumably, this is the date

she failed to report to her parole officer.

The ultimate question is whether the March 17, 1998, amendment to §2967.15(C)(2) applies to this defendant. This Court notes the conflicting authority from the Eighth District Court of Appeals, namely *State v. Goode* (July 25, 2002), Cuyahoga App. No. 80525, and *State v. Thompson* (Nov. 27, 2002), Cuyahoga App. No. 78919.

Because this Court agrees with the reasoning of the Eighth District Court of Appeals in *State v. Goode*, *supra*, the defendant's motion to dismiss is denied.

IT IS SO ORDERED.

Date: February _____, 2003

JOHN P. O'DONNELL, JUDGE

CERTIFICATE OF SERVICE

A copy of the foregoing **Journal Entry** has been sent by regular U.S. mail this ____ day of

February, 2003 to:

William D. Mason
Cuyahoga County Prosecutor
The Justice Center
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and

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JOHN P. O'DONNELL, JUDGE