

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

STATE OF OHIO,	:	APPEAL NO. C-230581
	:	TRIAL NO. 21CRB-11053
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
ETHAN HAMILTON,	:	
	:	
Defendant-Appellant.	:	

The court sua sponte removes this cause from the regular calendar and places it on the court’s accelerated calendar, 1st Dist. Loc.R. 11.1(C)(1), and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.

Defendant-appellant Ethan Hamilton<sup>1</sup> appeals from the trial court’s decision denying his application to seal his record of conviction. In his sole assignment of error, Hamilton argues that the trial court abused its discretion in denying his application when the state failed to file a written objection to his application under R.C. 2953.32(C).

R.C. 2953.32(B)(1)(a)(ii), however, imposes a waiting period of one year from final discharge of a conviction before a person may apply to have a record of

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<sup>1</sup> We use Hamilton’s name rather than his initials in this judgment entry because neither party sought to identify Hamilton using a pseudonym under Sup.R. 45(E) or Loc.R. 13.2. This appeal therefore creates a separate record of Hamilton’s conviction. Should Hamilton ultimately obtain relief under R.C. 2953.32 from the trial court, he may submit a post-judgment motion to seal this proceeding under Loc.R. 13.2.

conviction sealed. Because Hamilton was ineligible under this provision to have his record sealed at the time of his application, we affirm the judgment of the trial court.

***Factual and Procedural Background***

The charge Hamilton seeks to seal relates to an altercation that took place on the University of Cincinnati campus late in the evening of June 26, 2021. Hamilton punched the victim during the altercation and was subsequently charged with assault in violation of R.C. 2903.13(A). He pled no contest and was sentenced on October 19, 2021, to 180 days of incarceration, which were suspended, and one year of community control. He was also ordered to stay away from the victim.

On March 8, 2023, Hamilton applied to seal the record of his conviction. The trial court held a hearing on his application on October 30, 2023. At the hearing, Hamilton's counsel argued that Hamilton had been sufficiently rehabilitated and that his conviction was preventing him from obtaining certain employment opportunities.

Plaintiff-appellee the city of Cincinnati had not filed a written objection to Hamilton's motion, and the trial court offered the city a continuance to do so. Because the city believed that the hearing may have been untimely, it decided to verbally object instead. The city disagreed that there had been enough time for rehabilitation, given that it had been less than a year since the final discharge of his conviction.

The victim's father also testified at the hearing. He testified that his son's injuries were extensive and long-lasting.

Hamilton also testified. He stated that, aside from a connected civil suit, he had a clean record.

The trial court denied Hamilton’s application based on the violence of the underlying charge and the recency of the charge. Hamilton now appeals.

**R.C. 2953.32**

Hamilton argues that the trial court abused its discretion in denying his application to seal the record of his conviction. Specifically, he contends the trial court’s decision was erroneous, because the state should have filed written objections to his application as set forth in R.C. 2953.32(C).

“Generally, an appellate court reviews a trial court’s decision regarding an application to seal records under an abuse-of-discretion standard. But if the sealing of records involves a purely legal question, our standard of review is de novo.” (Internal quotation marks and citations omitted.) *State v. Evans*, 1st Dist. Hamilton No. C-210251, 2022-Ohio-341, ¶ 3. “Abuse of discretion implies that the court’s attitude, in reaching its decision, was unreasonable, arbitrary, or unconscionable.” (Internal quotation marks omitted.) *State v. R.S.*, 1st Dist. Hamilton Nos. C-210169, C0210171, C-210172, and C-210173, 2022-Ohio-1108, ¶ 7.

Before reaching the question of how the prosecution may object to a motion to seal a record of conviction, R.C. 2953.32(D)(1)(a) requires that the trial court first determine whether the application was made within the proper time requirements. Under R.C. 2953.32(B)(1)(a)(ii), an offender must wait to file an application for record sealing until the expiration of one year after his final discharge. In *State v. P.J.F.*, 170 Ohio St.3d 332, 2022-Ohio-4152, 212 N.E.3d 894, ¶ 13, the Ohio Supreme Court held that a final discharge does not occur until an offender satisfies all sentencing requirements.

Here, Hamilton was sentenced on October 19, 2021, to 180 days of incarceration, which were suspended, and one year of community control. The record does not indicate that Hamilton's community control was terminated early. Thus, the expiration of Hamilton's one-year period of community control occurred on October 19, 2022. He would have then been eligible to apply to have his conviction record sealed on October 19, 2023. But Hamilton applied on March 8, 2023, which was nearly seven months before he was eligible. Because Hamilton was not eligible to have his conviction record sealed at the time of his application, the trial court did not err in denying his application.

Though the trial court did not make this finding under R.C. 2953.32(D)(1)(a), we review this issue de novo given it is purely a matter of statutory interpretation. *Evans*, 1st Dist. Hamilton No. C-210251, 2022-Ohio-341, at ¶ 3. Further, as the reviewing court, we may affirm the trial court's judgment on a ground other than provided by the trial court, if the alternative ground is supported by the record. *State v. Spurling*, 1st Dist. Hamilton No. C-210002, 2021-Ohio-3748, ¶ 15.

Accordingly, because Hamilton was ineligible to have his conviction record sealed at the time of his application, and he did not satisfy the requirements of R.C. 2953.32(D)(1)(a), we overrule Hamilton's sole assignment of error and affirm the judgment of the trial court.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**BERGERON, P.J., CROUSE and KINSLEY, JJ.**

**OHIO FIRST DISTRICT COURT OF APPEALS**

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To the clerk:

Enter upon the journal of the court on May 10, 2024,

per order of the court \_\_\_\_\_.  
Administrative Judge