# CAPTION: STATE V. HENDERSON

**06-18-24**

APPEAL NO: C-230527

TRIAL NO: C-23CRB-5851

KEY WORDS: MOOTNESS — THEFT — R.C. 2913.02(A)(1) — EVIDENCE — SUFFICIENY — CONSENT

SUMMARY:

Defendant’s appeal from a misdemeanor conviction was not moot where, although defendant paid restitution as ordered and the trial court terminated defendant’s community control, the record did not affirmatively demonstrate that the trial court had remitted or that defendant had paid the previously-imposed court costs, fines, or fees, and unpaid costs, fines, or fees prevent a misdemeanor appeal from becoming moot.

Defendant’s theft conviction under R.C. 2913.02(A)(1) was not supported by sufficient evidence where the property owner testified that the owner permitted defendant to leave with the property and the state therefore failed to establish that defendant obtained control over the property without the owner’s consent.

JUDGMENT: REVERSED AND APPELLANT DISCHARGED

JUDGES: OPINION by BOCK, P.J.; ZAYAS and WINKLER, JJ., CONCUR.