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

IN RE: ANNISHIA SMITH	:	APPEAL NO. C-260219 TRIAL NO. CQ2500034
	:	
	:	
	:	*JUDGMENT ENTRY*
	:	

KINSLEY, Presiding Judge.

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

Petitioner-appellant Annishia Smith appeals the judgment of the Hamilton County Court of Common Pleas denying her petition for a certificate of qualification of employment ("CQE"). In a single assignment of error, Smith contends that the trial court abused its discretion in denying her CQE petition. The State concedes the error.

Smith was released from prison in 2021, after serving an aggregate ten-year sentence for voluntary manslaughter, attempted murder, aggravated burglary, and aggravated robbery. She filed her CQE petition in December 2025, more than four years after her release from incarceration. As the State points out, R.C. 2953.25(C)(5) creates a rebuttable presumption that Smith is eligible for a CQE based on the passage of time between her release from incarceration and the filing of her petition for a CQE.

That presumption may be rebutted if the trial court determines that Smith has not been rehabilitated. *See* R.C. 2953.25(C)(6).

The trial court errs when more than three years have elapsed between a petitioner's release from prison in a felony case and the filing of the petitioner's CQE petition and it fails to apply the statutory presumption in favor of a CQE. *See Hopkins v. Certificate of Qualification for Emp.*, 2025-Ohio-1072, ¶ 14 (10th Dist.). In such circumstances, the appropriate remedy is to reverse the trial court's denial of a CQE and to remand the petition to the trial court for it to apply the statutory provisions governing the rebuttable presumption. *Id.*

Here, the trial court denied Smith's petition on the basis that her felony convictions for voluntary manslaughter and aggravated robbery are unique and serious. It did not consider the application of the R.C. 2953.25(C)(5) rebuttable presumption, nor did it determine whether that presumption was overcome by evidence of the lack of rehabilitation. Rather, it denied Smith's petition for a CQE based on the seriousness of her felony convictions.

We accordingly sustain Smith's assignment of error, reverse the judgment of the trial court, and remand the cause for the trial court to apply the rebuttable presumption in R.C. 2953.25(C)(5) and to determine whether that presumption is rebutted under R.C. 2953.25(C)(6).

The court further orders that (1) a copy of this Judgment constitutes the mandate, (2) the mandate be sent to the trial court for execution under App.R. 27, and (3) costs shall be taxed under App.R. 24.

CROUSE and **NESTOR, JJ.,** concur.

To the clerk:

Enter upon the journal of the court on 8/26/2026.

Pursuant to App.R. 30, the clerk is directed to send to all parties, or their counsel if represented, a copy of the court's judgment and note such action on the docket.

By: Jennifer Hensley
Administrative Judge