

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

STATE OF OHIO,	:	APPEAL NO. C-160644
Plaintiff-Appellee,	:	TRIAL NO. C-13CRB-9584A C-13CRB-9584B
vs.	:	<i>JUDGMENT ENTRY.</i>
LAKYSHA SAGER,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, 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. 11.1.1.

Defendant-appellant Lakysa Sager was convicted on two counts of interference with custody in violation of R.C. 2921.23, both first-degree misdemeanors. In 2016, she applied to seal the record of her convictions under former R.C. 2953.32.<sup>1</sup> The prosecutor objected on the grounds that Sager was ineligible as a matter of law, contending that Sager’s convictions involved victims under the age of 16, and the convictions were precluded from sealing under the exception in R.C. 2953.36(F).

The trial court judge, who had presided over the jury trial on the underlying convictions, held a full hearing on the application. At the hearing, defense counsel argued that Sager’s convictions involved eligible offenses and that she otherwise met the requirements for the sealing of the record of her convictions. To demonstrate Sager’s

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<sup>1</sup> This statute has since been amended, but those amendments do not impact our analysis.

rehabilitation, defense counsel cited to Sager's lack of new charges. Counsel, however, did not mention any remorsefulness, and Sager did not testify or present her affidavit in support of her petition. The trial court denied Sager's application without giving its reasoning.

In her sole assignment of error, Sager argues that the trial court erred as a matter of law when it denied her application to seal the record of her convictions because the exception in R.C. 2953.36(F) did not apply. The state maintains that Sager was ineligible under that section, and that even if Sager was eligible, she cannot demonstrate the error assigned because the record does not reflect that the trial court denied the application based on the exception in R.C. 2953.36(F).

Generally, this court will not disturb a trial court's decision to grant or deny an application to seal a record absent an abuse of discretion. *State v. Blair*, 2016-Ohio-5714, 62 N.E.3d 201, ¶ 4 (1st Dist.). But where the dispute about the sealing of records involves a purely legal question, we review de novo. *Id.*

When determining whether to grant or deny an application to seal a conviction, the trial court must comply with the mandates of R.C. 2953.32(C)(1), which includes determining if the applicant meets the eligibility requirements with respect to the offense. R.C. 2953.32(C)(1)(a). If the applicant is eligible and is not the subject of pending criminal proceedings, the court must also determine whether the applicant has been rehabilitated to the satisfaction of the court, consider any objection filed by the prosecutor, and "[w]eigh the interests of the applicant in having the records \* \* \* sealed against the legitimate needs, if any, of the government to maintain those records." R.C. 2953.32(C)(1)(c)-(e). But the statute does not require the trial court to make express findings or to state its compliance with the mandates of R.C. 2953(C)(1) on the record when denying or granting

a motion to seal. *State v. Murawski*, 1st Dist. Hamilton No. C-140298, 2014-Ohio-5438, ¶ 8; *State v. Krutowsky*, 8th Dist. Cuyahoga No. 81545, 2003-Ohio-1731, ¶ 14.

Because R.C. 2953.32(C)(1) is not a fact-finding statute, we presume the trial court considered the relevant factors and criteria in the statute, absent a showing by Sager that the trial court failed in its duties. *See Murawski* at ¶ 8; *Krutowsky* at ¶ 13. Here, Sager has not shown that her application was denied because the court determined that her convictions were ineligible. And Sager does not argue that if she was eligible, the trial court abused its discretion when denying her application.

Because Sager has failed to demonstrate the error assigned, we overrule her assignment of error and affirm the trial court's judgment.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**MOCK, P.J., CUNNINGHAM and MYERS, JJ.**

To the clerk:

Enter upon the journal of the court on November 17, 2017  
per order of the court \_\_\_\_\_  
Presiding Judge