

STATE OF MICHIGAN
COURT OF APPEALS

STACY M. CARR, a/k/a STACY MAY CARR,

Appellant,

v

MIDLAND COUNTY CONCEALED WEAPONS
LICENSING BOARD,

Appellee.

FOR PUBLICATION
November 18, 2003
9:05 a.m.

No. 239606
Midland Circuit Court
LC No. 01-004079-AL

Updated Copy
January 30, 2004

Before: Donofrio, P.J., and Sawyer and O'Connell, JJ.

O'CONNELL, J. (*dissenting*)

I respectfully dissent. Appellant was "convicted" of a drug crime when the trial court accepted her guilty plea. MCL 28.425b(17)(a).¹ Therefore, MCL 28.425b(7)(f) does not allow her to receive a concealed pistol license.

The majority acknowledges this fact, but holds that the trial court somehow dismissed its acceptance of her guilty plea.² MCL 333.7411. Because the law requires me to read and apply the law according to its straightforward meaning, I must conclude that dismissing the postponed proceedings only affected the trial court's future actions, not actions already taken. Appellant still pleaded guilty under § 7411 and the trial court did in fact accept the plea. Nothing else is required under the statute. Appellant cannot undo the trial court's acceptance of her guilty plea any more than she can unring a bell.³ Lawmakers clearly wanted to keep concealed pistols out of

¹ The Legislature recently rearranged the statute, so the relevant definition is now found in MCL 28.425b(17)(a) rather than MCL 28.425b(16)(a). The substance of the definition remains the same and states, "'Convicted' means . . . a plea of guilty or nolo contendere if accepted by the court"

² If this were true, appellant would not have received § 7411 status.

³ Because the concealed pistol licensing act (CPLA), MCL 28.421 *et seq.*, uniquely defines "convicted" to include a plea of guilty that is accepted by a court, the majority's nullity and acceptance revocation theories are similar to unringing a bell once it has been rung. The CPLA does not provide for such legal fictions or any similar exceptions.

the hands of hardcore drug abusers and other felons when they designed the licensing laws.⁴ I would affirm the decision of the trial court.

/s/ Peter D. O'Connell

⁴ The Midland County Concealed Weapons Licensing Board's discovery of appellant's § 7411 plea and its acceptance is not an issue raised in appellant's brief or at oral arguments. It appears for the first time in the majority opinion.