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1. CONVICTION—MEANS LEGAL PROCEEDING—PERSON CHARGED WITH FELONY FOUND GUILTY—JUDGMENT RENDERED—SENTENCE IMPOSED BY TRIAL COURT.
2. FELONY—DETECTION AND APPREHENSION OF PERSON SO CHARGED—PERSON WHO BY HIS EFFORTS BROUGHT ABOUT APPREHENSION—ENTITLED TO PAYMENT OF REWARD—COUNTY COMMISSIONERS NEED NOT AWAIT RESULT OF POSSIBLE APPEAL BEFORE PAYING REWARD—SECTION 307.49 RC.

SYLLABUS:

1. "Conviction" as used in Section 307.49, Revised Code, means a legal proceeding whereby a person charged with a felony is found guilty, and judgment is rendered and sentence imposed by the trial court.

2. When a person has by his efforts brought about the detection and apprehension of a person charged with a felony, he is entitled, upon the conviction of such offender, to the payment of a reward offered pursuant to Section 307.49, Revised Code, and the county commissioners need not await the result of a possible appeal from such judgment before paying such reward.

Columbus, Ohio, March 29, 1955

Hon. Harry Friberg, Prosecuting Attorney,
Lucas County, Toledo, Ohio

Dear Sir:

I have before me your communication, requesting my opinion and reading as follows:

“The Board of Commissioners of Lucas County, Ohio, adopted a resolution offering a reward of \$1,000.00 for the detection of the then unknown perpetrator of a murder. As a result of information received from a Lucas County resident, the perpetrator of the crime was arrested and has since been convicted. The informant has now made claim for the reward.

“Revised Code Section 307.49 makes such reward payable only ‘on the conviction.’ In view of the fact that appeals will no doubt be taken from the conviction, your opinion is requested as to whether the commissioners may pay the reward now, or must they wait until such time as the conviction becomes final by failure of the appellate courts to reverse the same.”

Section 307.49 of the Revised Code, to which you refer, reads as follows:

“The board of county commissioners may offer such rewards as the nature of the case requires, for the detection or apprehension of any person charged with or convicted of felony, and on the conviction of such person, pay it from the county treasury, together with all other necessary expenses, not otherwise provided for by law, incurred in making such detection or apprehension. The board may, on the collection of a recognizance given and forfeited by such person, pay the reward so offered, or any part thereof, together with all other necessary expenses so incurred and not otherwise provided for by law.”

Plainly, the answer to your question depends entirely upon the definition of the word “conviction” as used in this statute. If a person accused of a crime may be said to have been convicted upon the rendition of a verdict finding him guilty and the judgment of the court pronounced on the defendant as the result of such verdict, then the reward may be paid at once to the claimant, provided he has fulfilled the condition by bringing about the detection or apprehension of the felon.

If, on the other hand, the person charged with the crime is not convicted until he has waived or exhausted his right of appeal, after trial, verdict and sentence, then the reward has not been earned and cannot be paid until the court of final resort has approved the verdict and judgment of the court finding him guilty.

To state it more simply, is a man, within the contemplation of this statute, convicted when he has been tried by a jury, found guilty and sentenced, or is he convicted only when that judgment has become final after appeal or waiver of appeal?

In Bouvier's Law Dictionary "conviction" is defined as follows:

"That legal proceeding of record which ascertains the guilt of the party and upon which the sentence or judgment is founded."

"Finding a person guilty by verdict of a jury."

Further on, this author says:

"In its popular sense a verdict of guilty is said to be a conviction. In its strict legal sense it means judgment on a plea or verdict of guilty."

Bouvier makes no reference to the possibility of an appeal as suspending or delaying a conviction.

In the Cyclopedic Law Dictionary substantially the same definitions are given. This author adds this:

"And final judgment is usually held essential to conviction."
Citing 69 N. Y., 107; 99 Mass., 420.

I have found no Ohio decisions which appear to throw any light on the question. In volume 9, Words and Phrases, at page 594 et seq., there are several cases which appear to define the word "conviction" substantially as stated in Bouvier. Typical of these definitions is that given in the case of *Martin v. State* (Okla.) 234 P. 795, 796:

"In its ordinary sense the term 'conviction' is used to designate that particular stage of a criminal prosecution, when a plea of guilty is entered in open court, or a verdict of guilty is returned by a jury. But in a strict, legal sense it denotes the final judgment of the court,' and 'imports the final consummation of the prosecution, from the complaint to the judgment of the court by sentence!"

As to the effect of an appeal from a verdict and judgment of a trial court I find some contradiction in the decisions of other states. For instance, in the case of *State ex rel. Scott v. Cox* (Mo.) 243 S. W., 144, it was held:

“A decision of an appellate court that there was no ‘conviction’ entitling one to reward until determination of appeal held not in conflict with former decisions of the Supreme Court.”

On the contrary, in the case of *Quintard v. Knoedler*, 53 Conn., 485, it was held:

“‘Conviction’ means the verdict of the jury finding the party guilty, and does not refer to the termination of the legal proceedings. So a party is said to be ‘convicted’ immediately after a verdict of guilty, though there may at the time be proceedings on appeal still pending.”

Accordingly, I feel compelled to choose between a strict interpretation and a liberal interpretation of the law as to the right of a person claiming a reward, to receive the same. Let it be borne in mind that we are not here construing a statute or undertaking to reach a conclusion which would in any wise affect the rights of one charged with a crime, and therefore we are not held by any principle of law to a strict construction. On the contrary, we are dealing with the practice long sanctioned by the law, which in my opinion has the purpose of stimulating the activity of citizens in assisting the state in discovering and bringing to trial the perpetrators of crime. The scope of the activity of a person who does thus seek to uncover the identity of a criminal and bring him to justice, is of course limited to that discovery, and he has nothing to do with the prosecution or punishment or any proceedings after the trial. If, therefore, it is worth while for the state to offer to compensate any person who devotes himself in an unusual degree to the detection and apprehension of a criminal, it appears to me that we are justified in adopting the more liberal course. We should not adopt an interpretation of the law which would tend to discourage such activity on the part of a citizen by subjecting him, after he has performed this service, to the long delays that may result from appeals and a series of appeals, new trials and a possible abandonment of prosecution by which he would lose his reward entirely.

There can be no doubt but that as used in the popular or ordinary sense, “conviction” means a finding of guilty by a jury and a sentence

imposed by the court. As stated by Webster, it is “the proceeding of record by which a person is legally found guilty of any crime, especially by a jury, and on which the judgment is based.”

It is a well recognized rule of construction that “words of common usage should be given their usual, ordinary or natural meaning, or signification, according to approved usage, unless there is some indication to the contrary in the statute itself.” Crawford on Statutory Construction, Section 186.

I think it proper, furthermore, to call attention to the provisions of the statute that the county commissioners may not only offer and pay a reward for the detection or apprehension of a person charged with or convicted of a felony, but along with this reward they may pay “all other necessary expenses not otherwise provided for by law, incurred in making such detection or apprehension.” It is thus recognized that the person performing the service of bringing the accused felon into the hands of justice, may have incurred or paid expenses in a considerable amount, for which he is entitled to reimbursement. But the county commissioners are not authorized even to reimburse him for such expenses until they can also pay the reward, which they may only do on the conviction of the criminal. This, in my opinion strengthens the argument that one who has earned the reward is entitled to be paid on conclusion of what is ordinarily regarded as a “conviction” of the criminal.

Accordingly, in specific answer to your question, it is my opinion :

1. “Conviction” as used in Section 307.49, Revised Code, means a legal proceeding whereby a person charged with a felony is found guilty, and judgment is rendered and sentence imposed by the trial court.
2. When a person has by his efforts brought about the detection and apprehension of a person charged with a felony, he is entitled, upon the conviction of such offender, to the payment of a reward offered pursuant to Section 307.49, Revised Code, and the county commissioners need not await the result of a possible appeal from such judgment before paying such reward.

Respectfully,
C. WILLIAM O’NEILL
Attorney General