

No. 25-1028

**IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

Rodney Phath,

Plaintiff-Appellant,

v.

Central Transport North America, Inc.,

Defendant-Appellee.

On Appeal from a Final Judgment of the
United States District Court for the Eastern District of Pennsylvania
Case No. 2:24-cv-00681, Judge John R. Padova

**OPENING BRIEF FOR PLAINTIFF-APPELLANT
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Introduction

The Commonwealth of Pennsylvania has long recognized a “deeply ingrained public policy of ... avoid[ing] unwarranted stigmatization of and unreasonable restrictions upon former offenders.” *Sec’y of Revenue v. John’s Vending Corp.*, 309 A.2d 358, 362 (Pa. 1973). The Commonwealth’s Criminal History Record Information Act (CHRIA), which limits access to and use of criminal history record information, is a powerful “expression of [that] public policy.” *Cisco v. United Parcel Servs., Inc.*, 476 A.2d 1340, 1343 (Pa. Super. Ct. 1984). One of CHRIA’s key limitations bars a Pennsylvania employer from considering a job applicant’s non-job-related criminal convictions in making a hiring decision. 18 Pa. Cons. Stat. § 9125(b).

Plaintiff-Appellant Rodney Phath is one of more than 70 million Americans with a criminal record.¹ When he applied to drive a truck for Defendant-Appellee Central Transport, over 15 years had passed since his conviction. Phath disclosed his conviction to Central Transport after the company told him that it planned to order a background check. Despite the remoteness of the offense and its irrelevance to his suitability

¹ Matthew Friedman, *Just Facts: As Many Americans Have Criminal Records as College Diplomas*, Brennan Ctr. for Just. (Nov. 17, 2015), <https://www.brennancenter.org/our-work/analysis-opinion/just-facts-many-americans-have-criminal-records-college-diplomas>.

for the job, Central Transport rejected Phath based on his criminal record. It did so even though CHRIA Section 9125 prohibits employers from considering an applicant's criminal history unless it relates to the applicant's suitability for the job. 18 Pa. Cons. Stat. § 9125(b).

The district court endorsed Central Transport's position that Section 9125(b) applies only when an employer receives an actual copy of the job applicant's criminal history record information file, even though, by its words, Section 9125(b) categorically prohibits employers from considering an applicant's convictions unless they are job-related. Appx14-15; *see* 18 Pa. Cons. Stat. § 9125(a). The district court's holding allows employers to evade Pennsylvania's statutory protections for former offenders simply by requesting criminal history record information from job applicants themselves rather than from the criminal-justice agencies that maintain the records. This Court should reverse that decision and affirm Pennsylvania's "deeply ingrained public policy," expressed in Section 9125(b), of protecting former offenders from unjust barriers to employment. *Hunter v. Port Auth. of Allegheny Cnty.*, 419 A.2d 631, 634 (Pa. Super. Ct. 1980) (quoting *Sec'y of Revenue*, 309 A.2d at 362).

Jurisdictional Statement

The district court had jurisdiction under 28 U.S.C. § 1332(a)(1) on the basis of diversity of citizenship. Appx4 (¶ 1). Plaintiff-Appellant Phath is

a citizen of Pennsylvania, and Defendant-Appellee Central Transport is a citizen of Indiana with its principal place of business in Michigan. Appx4-5 (¶¶ 4-6). The amount in controversy exceeds \$75,000. Appx4 (¶ 1). On December 23, 2024, the district court granted Central Transport's motion to dismiss, disposing of all claims of all parties. Appx16. Phath filed a notice of appeal on January 3, 2025. Appx17. This Court has jurisdiction under 28 U.S.C. § 1291.

Issue Presented

CHRIA Section 9125 provides that when an employer is in “receipt of information which is part of an employment applicant’s criminal history record information file,” the employer may consider an applicant’s convictions only insofar as they “relate to the applicant’s suitability for employment in the position for which he has applied.” 18 Pa. Cons. Stat. § 9125(a)-(b). If the decision not to hire an applicant is “based in whole or in part on [their] criminal history record information,” the employer must notify the applicant in writing. *Id.* § 9125(c). The issue presented is:

Whether the district court erred in dismissing Rodney Phath’s claim that Central Transport violated CHRIA when it refused to hire Phath as a truck driver based on a 15-year-old conviction that was not relevant to

his suitability for the job and then did not provide him written notice of its decision.²

Statement of Related Cases

This case has not been before this Court before, and Phath is not aware of any other pending case presenting similar issues pending before this Court or any other court, state or federal.³

Statement of the Case

This case concerns CHRIA Section 9125, which provides that a job applicant's criminal convictions may be used in hiring decisions "only to the extent to which they relate to the applicant's suitability for employment in the position for which he has applied." 18 Pa. Cons. Stat. § 9125(b). If an employer relies on an applicant's criminal history when making a hiring decision, CHRIA requires the employer to notify the applicant of that decision in writing. *Id.* § 9125(c). Central Transport violated CHRIA when it denied Phath's job application based on his prior

² Raised ECF 12 (motion to dismiss); decided Appx16.

³ This Court may wish to petition for certification of the issue presented to the Pennsylvania Supreme Court. The facts material to the issue decided below are undisputed; the issue presented concerns a matter of first impression under Pennsylvania law that is of substantial public importance; there are conflicting decisions in the U.S. district courts; and the question concerns an unsettled issue of the construction a Pennsylvania statute. *See* 210 Pa. Code Rule 3341(c).

conviction, which was unrelated to his suitability for the job, and then failed to notify him in writing of the decision.

I. Factual background

In December 2023, Phath applied to drive a truck for Central Transport, which regularly advertises for and hires truck drivers. Appx5 (¶ 7). Phath met the qualifications for the position: He held a valid Commercial Driver's License and had significant experience as a truck driver. Appx5 (¶ 8). In his job interview, Central Transport told Phath that it would conduct a criminal background check. Appx5 (¶ 12). Phath then disclosed that he had a 15-year-old criminal conviction for armed robbery. Appx5 (¶ 13). He served six years in prison following his 2008 conviction and has maintained a spotless record since his release more than a decade ago. Appx5 (¶ 13).

Though Phath met all job-related qualifications for the position, Central Transport immediately informed him that he was ineligible for the position because of his criminal history record. Appx6 (¶ 14). Central Transport did not conduct any individualized assessment to determine Phath's suitability for the job, did not consider the specific circumstances surrounding his conviction, and did not evaluate whether the conviction was in any way related to the responsibilities of a truck driver. Appx6 (¶ 15). Central Transport never notified Phath in writing of its decision to deny him employment based on his criminal history, as required by

CHRIA when an employer bases a hiring decision on a job applicant's criminal history record. Appx6 (¶ 16); *see* 18 Pa. Cons. Stat. § 9125(c).

II. Procedural background

Phath sued Central Transport under CHRIA in the Eastern District of Pennsylvania. Appx4; *see* 18 Pa. Cons. Stat. § 9183(b) (authorizing suit for CHRIA violations). Phath alleged that Central Transport violated CHRIA Section 9125 by rejecting his job application based on his criminal history record without inquiring into whether the conviction was job-related. Appx7 (¶ 23). He also alleged that Central Transport failed to comply with Section 9125(c), which mandates that employers provide applicants with written notice if the decision not to hire them is based, in whole or in part, on their “criminal history record information.” Appx7; *see* 18 Pa. Cons. Stat. § 9125(c).

Central Transport moved to dismiss Phath's claims under Federal Rule of Civil Procedure 12(b)(6), asserting that its decision not to hire Phath did not violate CHRIA. The company maintained that it was not in receipt of Phath's criminal history record information file, *see* 18 Pa. Cons. Stat. § 9102, because the information came from Phath rather than from a criminal-justice agency. ECF 12-1 at 3-4. Therefore, according to Central Transport, CHRIA's protections did not apply, so Central Transport could freely consider Phath's non-job-related conviction and was not required to notify him of its decision in writing. *Id.*

Phath's opposition argued that Central Transport's reading of the statute contradicts Section 9125's text and purpose. ECF 13 at 4. Phath relied on the only published decision interpreting this question, which closely analyzed Section 9125 and concluded that "there is no reasonable basis upon which the statute can be construed to only apply to employers who receive [criminal-conviction] information by particular means." *Guzzo v. Allen Distrib.*, 479 F. Supp. 3d 91, 95 (M.D. Pa. 2020).

The district court granted Central Transport's motion to dismiss, concluding that an employer who obtains an applicant's criminal history record information through means other than their "criminal history record information file" is not subject to Section 9125's restrictions. Appx15. It held that Central Transport's "use of information regarding [Phath's] criminal history" was not prohibited by CHRIA because Central Transport learned of that information from Phath's disclosure, not from his actual criminal history record information file. Appx15.

Summary of Argument

I. CHRIA Section 9125 permits employers to consider applicants' criminal history record information in employment decisions but limits its use in an important way. Employers may not deny employment to a job applicant based on the applicant's criminal conviction unless the conviction relates to the applicant's suitability for the job. Central Transport violated Section 9125 the moment it relied on Phath's

disclosure of his conviction as the basis for rejecting his application for a position for which he was otherwise qualified.

Section 9125's protections are triggered when employers receive "information which is part of an applicant's criminal history record information file." 18 Pa. Cons. Stat. § 9125(a); *see also Guzzo v. Allen Distrib.*, 479 F. Supp. 3d 91, 94-95 (M.D. Pa. 2020). Phath's 15-year-old conviction falls within the statutory definition of "criminal history record information," 18 Pa. Cons. Stat. § 9102, and its use for any purpose other than assessing job-relatedness is barred under CHRIA. *See id.* § 9125(b). CHRIA bars an employer's use of an applicant's non-job-related convictions, regardless of how it learns about them. *See Guzzo*, 479 F. Supp. 3d at 94. So, when Central Transport denied Phath's job application based on a conviction that was part of his criminal history record information—despite it having no bearing on his suitability to drive a truck—and failed to provide Phath its decision in writing, it violated CHRIA. *See* § 9125(b)-(c).

II. Section 9125 aims to protect individuals with criminal records from unwarranted barriers to employment. The district court's holding thwarts this goal because it allows any employer to evade Section 9125's protections simply by asking job applicants about their criminal history record information. By doing so, employers can force applicants into a choice that is no choice at all, rendering Section 9125 meaningless: Applicants may omit criminal history record information when asked and

be denied employment because they have been untruthful, or disclose it and be denied employment because their answers reveal a criminal history, as happened to Phath. That is at odds with what Section 9125 says, and it is at war with its central objective—ensuring that job applicants with prior convictions cannot be denied employment unless those convictions are job-related.

Standard of Review

This Court reviews a grant of a Rule 12(b)(6) motion to dismiss *de novo*. *Chavarriaga v. N.J. Dep’t of Corr.*, 806 F.3d 210, 218 (3d Cir. 2015). The Court must “accept all factual allegations as true, construe the complaint in the light most favorable to the plaintiff, and determine whether, under any reasonable reading of the complaint, the plaintiff may be entitled to relief.” *Fowler v. UPMC Shadyside*, 578 F.3d 203, 210 (3d Cir. 2009) (quoting *Phillips v. County of Allegheny*, 515 F.3d 224, 233 (3d Cir. 2008)).

Argument

- I. Section 9125 prohibited Central Transport from rejecting Phath’s job application based on his prior conviction without considering whether it is job-related.**

The district court’s interpretation of Section 9125 is wrong because it undermines that provision’s core goal: preventing employers from arbitrarily discriminating against individuals with criminal records. A

Pennsylvania statute must be interpreted to “give effect to all its provisions.” *See* 1 Pa. Cons. Stat. § 9121(a). The only reading that fulfills this requirement is one that bars employers from using an applicant’s prior convictions in hiring decisions, regardless of how they learn of them, unless the convictions are job-related. *See* 18 Pa. Cons. Stat. § 9125(b); *see also Guzzo v. Allen Distrib.*, 479 F. Supp. 3d 91, 95 (M.D. Pa. 2020).

The district court’s contrary holding—that Section 9125(b)’s ban on the use of convictions in hiring decisions applies only when the employer obtains them directly from an applicant’s criminal history record information file—should be rejected. A sequential review of Section 9125 shows why that is so.

1.a. CHRIA Section 9125 begins, in subsection (a), by explaining that “[w]henever an employer is in receipt of information which is part of an employment applicant’s criminal history record information file, it may use that information for the purpose of deciding whether or not to hire the applicant, only in accordance with this section.” 18 Pa. Cons. Stat. § 9125(a). Section 9125’s protections are thus triggered the moment an

employer is “in receipt of information which is part of an employment applicant’s criminal history record information file.” *Id.*⁴

Central Transport was *in receipt of* information within Phath’s criminal history record information file. “Receipt” is broadly defined today, as it was in 1979 when CHRIA was enacted, as “the action of receiving something.” *Receipt*, Oxford Eng. Dictionary, https://www.oed.com/dictionary/receipt_n?tl=true (last visited Mar. 17, 2025). The statute is silent as to the source of the information and is not limited, as the district court believed, *see* Appx14, to information obtained through particular means or agents. *See Guzzo*, 479 F. Supp. 3d at 94. The passive construction of the provision—“in receipt of”—

⁴ Section 9125 provides in full:

(a) General rule.--Whenever an employer is in receipt of information which is part of an employment applicant’s criminal history record information file, it may use that information for the purpose of deciding whether or not to hire the applicant, only in accordance with this section.

(b) Use of information.--Felony and misdemeanor convictions may be considered by the employer only to the extent to which they relate to the applicant’s suitability for employment in the position for which he has applied.

(c) Notice.--The employer shall notify in writing the applicant if the decision not to hire the applicant is based in whole or in part on criminal history record information.

18 Pa. Cons. Stat. § 9125.

underscores its inclusive scope: Once the information is received—regardless of how or from whom—it falls within Section 9125. *Id.* Phath’s disclosure of his felony conviction to Central Transport, therefore, triggered the statute.

Phath’s 15-year-old conviction is also *part of* his criminal history record information file. The phrase “which is part of,” appearing directly after “information” in Section 9125(a), is an adjectival phrase modifying the type of information at issue. *Guzzo*, 479 F. Supp. 3d at 94. “Part” means today, as it did upon CHRIA’s enactment in 1979, “a portion, segment, constituent, [or] fraction.” *Part*, Oxford Eng. Dictionary, https://www.oed.com/dictionary/part_n1?tab=meaning_and_use#32048550 (last visited Mar. 17, 2025). Any information that is a “portion,” “segment,” or any “constituent” part of an individual’s criminal history record information is covered by Section 9125.

Any other interpretation of the statute would render the words “information which is part of” surplusage. “In construing the language within a statute, [a court] must give effect to every word of the statute.” *S & H Transp., Inc. v. City of York*, 140 A.3d 1, 7 (Pa. 2016). “[I]t is no more the court’s function to revise by subtraction than by addition.” Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 174 (2012) (discussing the rule against surplusage). Yet, the district court’s reading—limiting Section 9125’s application only to situations where employers possess the applicant’s entire criminal

history record information file—impermissibly nullifies the statutory phrase “information which is part of.” Appx14.

The remaining question under Section 9125(a) is whether Phath’s criminal conviction was in his criminal history record information file. It was. CHRIA defines “criminal history record information” as “information collected by criminal justice agencies,” including “formal criminal charges and any dispositions arising therefrom.” 18 Pa. Cons. Stat. § 9102. The term “disposition” includes a “convict[ion].” *Id.* Thus, felony convictions—such as Phath’s—constitute “disposition[s]” of criminal charges and are, therefore, “part of” an applicant’s criminal history record information file.

b. Section 9125 then goes on, in subsection (b), to describe the sole circumstance under which an employer may consider an applicant’s criminal convictions: “only to the extent to which they relate to the applicant’s suitability for employment in the position for which he has applied.” 18 Pa. Cons. Stat. § 9125(b). Phath has alleged that his 15-year-old conviction is unrelated to his suitability for the truck-driver position, and this allegation must be taken as true. Appx5 (¶ 11). So, Phath has pleaded a violation of Section 9125(b) because Central Transport was “in receipt of” information that is “part of” Phath’s criminal history record information file the moment he voluntarily disclosed his conviction—and the company relied on that information as the basis for denying Phath employment. Appx5 (¶ 14).

c. And it follows, then, based on Phath's allegations, that Central Transport also violated Section 9125(c). That provision requires an employer to provide written notice to a job applicant when the employer's decision to deny employment is based, in whole or in part, on an applicant's criminal history record information. 18 Pa. Cons. Stat. § 9125(c). Here, Central Transport denied Phath employment based on his criminal history record yet failed to provide the required written notice. *See* Appx5 (¶16).

3. The district court arrived at its contrary, atextual understanding of Section 9125 in reliance on three unpublished decisions. *See* Appx12-14. That reliance was misplaced.

In *Foxworth v. Pa. State Police*, 228 F. App'x 151 (3d Cir. 2007), Foxworth applied for a police position and disclosed an expunged offense. *Id.* at 152-53. Because Foxworth's offense had been expunged, it was not part of his criminal history record, but the police nonetheless disqualified him for the position. *Id.* This Court rejected Foxworth's argument that this disqualification violated his due-process rights based on the well-established principle that job applicants under Pennsylvania law have "no property interest in trooper or police positions." *Id.* at 153-54.

This Court then addressed Foxworth's alternative argument that Section 9125 independently created a property interest in the job he sought. *Foxworth*, 228 F. App'x at 154-55. The Court rejected that argument, emphasizing that because, as noted, Foxworth's offense had

been expunged, it was not part of his criminal history record information file. *Id.* at 155. Thus, Section 9125(a) was never triggered. The employer was permitted to consider his offense—not because Foxworth voluntarily disclosed it, as the district court here suggested, Appx13, but because it was never within the scope of Section 9125’s protections. *See Foxworth*, 228 F. App’x at 155. Because *Foxworth*’s analysis was focused on the fact that Foxworth’s expunged arrest was not part of the criminal history record information file, its conclusion that CHRIA does not prohibit employers from considering “criminal misbehavior as disclosed on [a job] application” appears to be limited to information that is not a part of the criminal history record file to begin with. *See id.*

In any case, *Foxworth*’s reasoning is grounded in an incomplete rendition of Section 9125(a)’s text, which garbles its meaning. *Foxworth* maintained that Section 9125 and “its limitation” in Section 9125(b) “relate [only] to an ‘employment applicant’s criminal history record information file.’” *Foxworth*, 228 F. App’x at 155 (quoting in part 18 Pa. Cons. Stat. § 9125(a)). But when Section 9125(a)’s words are considered in full, *see supra* at 10-13, that provision actually covers all “*information which is part of* an employment applicant’s criminal history record information file.” 18 Pa. Cons. Stat. § 9125(a) (emphasis added). *Foxworth* fails to give effect to the critical words “information which is part of,” so it is wrong. *See S & H Transp.*, 140 A.3d at 7.

The district court's reliance on *Court v. Loews Phila. Hotel, Inc.*, 2017 WL 569522 (E.D. Pa. Feb. 13, 2017), was also misguided. There, the issue was whether a gym could invoke CHRIA as a defense to a negligent-hiring claim after it failed to conduct a criminal background check on a masseuse who later assaulted a customer. *Id.* at *2-4. The court rejected the CHRIA defense as premature at the Rule 12(b)(6) stage, reasoning that the statute's applicability depended on hypothetical facts not pleaded in the complaint—namely, what the gym *might* have discovered had it conducted a background check on the masseuse. *Id.* at *6. The court then went on to hypothesize, in dicta, that *if* the masseuse's criminality had been revealed through a background check, CHRIA would not have prevented the employer from learning about the masseuse's misconduct through means other than his criminal history record file and then using it in making a hiring decision. *Id.* We acknowledge that *Loews* employs logic similar to the district court's below. *See* Appx14-15. But as explained above (at 10-14), Section 9125(b)'s bar on use of non-job-related convictions does not depend on how the prospective employer learns of those convictions.

Azadpour v. AMCS Group, Inc., 2020 WL 564755 (E.D. Pa. Feb. 5, 2020), suffers from the same misunderstanding of the statute evident in *Loews*. It says that Section 9125 does not apply when employers obtain criminal history record information through an internet search. *Id.* at *4. Like *Foxworth*, *Azadpour* distorts CHRIA's meaning by selectively

quoting Section 9125(a): “By its terms, CHRIA applies only to employers who are ‘in receipt’ of an applicant’s ‘criminal history record information file.’” *Id.* But, again, that’s not what the statute says. Section 9125(a) actually applies “[w]hensoever an employer is in receipt of *information which is part of* an employment applicant’s criminal history record information file.” 18 Pa. Cons. Stat. § 9125(a) (emphasis added). So, again, Section 9125 does not restrict only an employer who obtains a job applicant’s actual criminal history record information file; rather, it prohibits an employer’s improper use of certain criminal history “information,” regardless of how it is acquired.

That was the conclusion reached in *Guzzo v. Allen Distribution*, 479 F. Supp. 3d 91 (M.D. Pa. 2020), the only decision that “give[s] effect to every word of the statute.” *S & H Transp.*, 140 A.3d at 7. *Guzzo* held that “Section 9125’s plain language” restricts an employer’s use of an applicant’s criminal history “regardless of how they receive the information.” 479 F. Supp. 3d at 94. The district court below dismissed *Guzzo*, saying that it “appear[ed] to ignore” CHRIA’s exclusion of some police and court information from the definition of criminal history record information in CHRIA Section 9104. Appx14; *see* 18 Pa. Cons. Stat. § 9104.

The district court’s reasoning—that Section 9104’s exceptions somehow negate Section 9125’s clear text—does not withstand scrutiny. Section 9104 generally excludes from “criminal history record

information” specified information “collected” from certain “sources,” including, for instance, court dockets, police blotters, and press releases. *See* 18 Pa. Cons. Stat. § 9104(e). Section 9104 does not, as the district court would have it, exclude from Section 9125’s protections all criminal history information received from sources other a job applicant’s criminal history record information file. That reading would create a loophole through which employers could consider job applicants’ criminal convictions without running them through Section 9125(b)’s job-relatedness requirement.

Whatever the significance of Section 9104, it has no bearing in this case. Central Transport did not “collect[]” information about Phath’s criminal history, as the information obtained by Central Transport came from Phath himself, not from any of the sources mentioned in Section 9104. *See* 18 Pa. Cons. Stat. § 9104(e). Finally, and most importantly, as explained above (at 13), a criminal conviction indisputably is included in CHRIA’s definition of “criminal history record information.” *Id.* § 9102; *see Guzzo*, 479 F. Supp. 3d at 95.

For all these reasons, Central Transport’s reliance on Phath’s criminal history record information was barred by Section 9125(b), and its failure to give written notice of its use of that information violated Section 9125(c). This Court should reverse.

II. The district court’s reading of Section 9125(b) leads to unjust outcomes and risks rendering it a nullity.

Interpretation of a Pennsylvania statute must “effectuate the intention of the General Assembly.” 1 Pa. Cons. Stat. § 1921(a). This intent may be discerned by considering the “circumstances under which [the statute] was enacted.” *Id.* § 1921(c)(2). CHRIA was enacted in 1979 amid a nationwide law-reform movement designed to help former offenders reintegrate into their communities.⁵ Among other things, CHRIA bars employers from using a “prior conviction as the sole reason for denying employment.” *Pennsylvania Plan for Privacy and Security of Criminal History Record Information: Public Hearing on H.R. 297 Before the H. Appropriations Comm. & H. Jud. Comm.*, 1976 Leg., 160th Sess. 233 (Pa. 1976) (statement of Dr. Peter Liacouras, Dean of Temple L. Sch.). To achieve this end, Section 9125(b) strictly limits an employer’s consideration of criminal convictions in hiring decisions “only to the extent to which they relate to the applicant’s suitability for employment in the position for which he has applied.” 18 Pa. Cons. Stat. § 9125(b).

The district court undermined that statutory mandate by reasoning that Section 9125 never prohibits an employer’s use of criminal-record

⁵ Michael Connett, Comment, *Employer Discrimination Against Individuals with a Criminal Record: The Unfulfilled Role of State Fair Employment Agencies*, 83 Temp. L. Rev. 1007, 1041 (2011).

information to deny a job applicant employment when the information is provided by the applicant. Appx14. Worse, the court held, more broadly, that individuals seeking relief under Section 9125 must show that their prospective employer had obtained and relied on the applicant's actual "criminal history record information file." Appx14. As already explained (at 10-18), the statute says nothing of the sort.

Statutory interpretation may not lead to a result that is "absurd, impossible of execution or unreasonable." 1 Pa. Cons. Stat. § 1922(1). Yet the district court's understanding of Section 9125 does just that. It grants employers a "get-out-of-jail-free" card from a statute designed to prevent employment discrimination against job applicants based on irrelevant prior convictions.

The district court's decision sets a trap for job applicants with criminal records. If applicants omit their convictions from job applications or interviews that ask for criminal history, employers can reject them for dishonesty—without ever evaluating whether the conviction was relevant to the job. That's because employers may take adverse employment action against applicants who lie to them. *See, e.g., Delay v. Dollar Energy Fund*, 2023 WL 6937404, *2 (3d Cir. Oct. 20, 2023); *McCorkle v. Schenker Logistics, Inc.*, 2014 WL 5020598, *5-6 (M.D. Pa. Oct. 8, 2014). But if applicants, like Phath, disclose their records truthfully, employers, like Central Transport, may, under the district

court's reasoning, freely reject them regardless of the job-relatedness of their convictions.

By the district court's logic, then, an employer who wishes to deny employment to all job applicants with a criminal record—precisely the employer conduct that Section 9125(b) was designed to prevent—can always do so. Courts may “not interpret a statute in such a way as to render it meaningless.” *McGrory v. Commonwealth of Pa., Dept. of Transp.*, 915 A.2d 1155, 1160 (Pa. 2007); *see also* Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 63 (2012). Yet, if the district court's ruling is accepted, the statute's words and objective—protecting former offenders from being denied employment based on non-job-related convictions—would be rendered meaningless. That cannot be right.

Conclusion

This Court should reverse the district court's grant of Central Transport's motion to dismiss and remand for further proceedings.

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s/ Brian Wolfman

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