

State of Ohio

Case No. 2006-2139

v.

E N T R Y

Vincent Colon

This cause is pending before the Court on the certification of a conflict by the Court of Appeals for Cuyahoga County. On review of the order certifying a conflict,

It is determined by the Court that a conflict exists. The parties are to brief the issue stated at page 1 of the court of appeals' Journal Entry filed November 2, 2006, as follows:

“Where an indictment fails to charge the mens rea element of the crime, and the defendant fails to raise that issue in the trial court, has the defendant waived the defect in the indictment?”

It is further ordered by the Court, sua sponte, that this cause is consolidated with Supreme Court Case No. 2006-2250, *State v. Colon*.

It is further ordered by the Court that the Clerk shall issue an order for the transmittal of the record from the Court of Appeals for Cuyahoga County.

It is further ordered that the parties shall combine the briefing of Case Nos. 2006-2250 and 2006-2139 and file one brief for each permitted under S.Ct.Prac.R. VI; the parties shall file an original of the brief in each case and 18 copies of the brief; and the parties shall otherwise comply with the requirements of S.Ct.Prac.R. VI.

(Cuyahoga County Court of Appeals; No. 87499)

THOMAS J. MOYER
Chief Justice