

State of Ohio

Case No. 2008-2172

v.

E N T R Y

Rusty Jordan

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

It is determined that a conflict exists. The parties are to brief the issue stated at page 1 of the court of appeals' Judgment Entry filed November 5, 2008, as follows:

“If a defendant is under *actual* detention, can the defendant be convicted of escape under R.C. 2921.34(A)(1) when the record demonstrates that the defendant knew he was under detention or was reckless in that regard, irrespective of whether the defendant was *properly* under said detention?”

It is ordered by the Court, sua sponte, that this cause is consolidated with Supreme Court Case No. 2008-2119, *State v. Jordan*.

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

It is further ordered by the Court that briefing in Case Nos. 2008-2172 and 2008-2119 shall be consolidated. The parties shall file two originals of each of the briefs permitted under S.Ct.Prac.R. VI and include both case numbers on the cover page of the briefs. The parties shall otherwise comply with the requirements of S.Ct.Prac.R. VI.

(Marion County Court of Appeals; No. 90811)

THOMAS J. MOYER
Chief Justice