

The Supreme Court of Ohio

FILED

SEP 05 2012

CLERK OF COURT
SUPREME COURT OF OHIO

State of Ohio

Case No. 2012-1177

v.

ENTRY

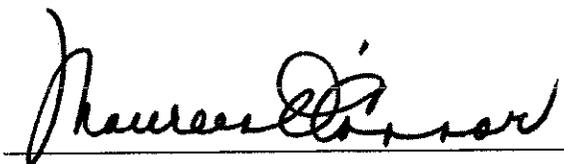
Scotty R. McDonald

This cause is pending before the court on the certification of a conflict by the Court of Appeals for Lawrence 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 2 of the court of appeals' Judgment Entry filed June 13, 2012, but rephrased by the court as follows:

"Is the inclusion of 'substantial risk of serious physical harm to persons or property' language from R.C. 2921.331(C)(5)(a)(ii) sufficient to sustain a third degree felony conviction for a violation of R.C. 2921.331(B) when the verdict fails to set forth the degree of the offense, and also fails to reference or include language from R.C. 2921.331(B)?"

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 Lawrence County.

(Lawrence County Court of Appeals; No. 11CA1)



Maureen O'Connor
Chief Justice