

FILED

FEB 20 2013

# The Supreme Court of Ohio

CLERK OF COURT  
SUPREME COURT OF OHIO

State of Ohio

Case No. 2012-1958

v.

ENTRY

Jason Romage

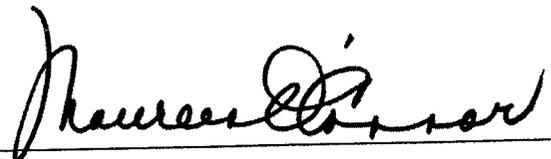
This cause is pending before the court on the certification of a conflict by the Court of Appeals for Franklin County. On review of the order certifying a conflict, it is determined that a conflict exists. The parties are to brief the issue stated at page 3 of the court of appeals' Judgment Entry filed October 23, 2012, as follows:

"The State argues that this court's decision is in conflict with a decision from the First District Court of Appeals. *State v. Clark*, 1st Dist. No. C-040329, 2005-Ohio-1324. We agree. The Clark court rejected the defendant's contention that R.C. 2905.05(A) was unconstitutional, thereby finding it constitutional. Our conclusion that R.C. 2905.05(A) is unconstitutional conflicts with the First District's resolution of the same question; the constitutionality of the statute. Therefore, we grant the State's motion to certify the conflict and certify the following question to the Supreme Court of Ohio for resolution: Is R.C. 2905.05(A) unconstitutionally overbroad?"

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 Franklin County.

It is further ordered by the court, sua sponte, that this cause is consolidated with Supreme Court Case No. 2012-2042, *State of Ohio v. Jason Romage*, and that the briefing in Case Nos. 2012-1958 and 2012-2042 shall be consolidated. The parties shall file two originals of each of the briefs permitted under S.Ct.Prac.R. 16.02-16.04 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. 16.01-16.04.

(Franklin County Court of Appeals; No. 11AP-822)



Maureen O'Connor  
Chief Justice