

FILED

OCT 23 2013

CLERK OF COURT  
SUPREME COURT OF OHIO

# The Supreme Court of Ohio

State of Ohio

Case No. 2013-1255

v.

ENTRY

Frank Rogers, Jr.

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 that a conflict exists. The parties are to brief the issues stated at page 1 of the court of appeals' Judgment Entry filed July 25, 2013, as follows:

“(1) Whether a trial court commits plain error where multiple offenses present a facial question of allied offenses of similar import, yet the trial court fails to determine whether those offenses should merge under R.C. 2941.25 at sentencing; and

(2) Whether the failure of a defendant to raise an allied-offense issue or to object in the trial court can constitute an effective waiver or forfeiture of a defendant's constitutional rights against double jeopardy and a bar to appellate review of the issue when the record is silent on the defendant's conduct.”

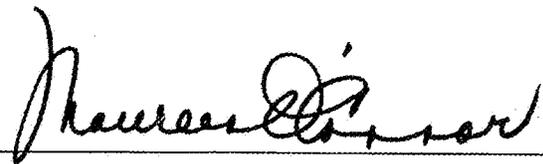
The parties shall also brief the issue stated at page 1 of the court of appeals' Judgment Entry filed September 6, 2013, as follows:

“Whether an offender who receives, retains, or disposes of the property of two or more other persons in a single transaction may be convicted and sentenced for more than one count of receiving stolen property?”

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 Cuyahoga County.

It is further ordered by the court, sua sponte, that this cause is consolidated with Supreme Court Case No. 2013-1501, *State of Ohio v. Frank Rogers, Jr.*, and that the briefing in Case Nos. 2013-1255 and 2013-1501 shall be consolidated. This case shall proceed pursuant to S.Ct.Prac.R. 16.05. State of Ohio is designated as appellant/cross-appellee and Frank Rogers Jr. is designated as appellee/cross-appellant. The parties shall file two originals of each of the briefs permitted under S.Ct.Prac.R. 16.05 and include both case numbers on the cover page of the briefs.

(Cuyahoga County Court of Appeals; Nos. 98292, 98584, 98585, 98586, 98587,  
98588, 98589 and 98590)

A handwritten signature in black ink, appearing to read "Maureen O'Connor", written over a horizontal line.

Maureen O'Connor  
Chief Justice