

NO. 07-1088

IN THE SUPREME COURT OF OHIO

APPEAL FROM
THE COURT OF APPEALS FOR CUYAHOGA COUNTY, OHIO
NO. 87854

STATE OF OHIO,
Plaintiff-Appellee

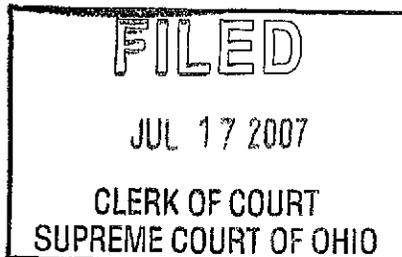
-vs-

JAMES BRADY,
Defendant-Appellant

MEMORANDUM IN RESPONSE TO JURISDICTION

Counsel for Plaintiff-Appellee

WILLIAM D. MASON
Cuyahoga County Prosecutor



KRISTEN L. SOBIESKI (0071523)
Assistant Prosecuting Attorney
The Justice Center
1200 Ontario Street
Cleveland, Ohio 44113
(216) 443-7800

Counsel for Defendant-Appellant

KEVIN M. SPELLACY
614 West Superior Avenue #1300
Cleveland, Ohio 44113

TABLE OF CONTENTS

WHY THIS COURT SHOULD NOT ACCEPT JURISDICTION.....1

STATEMENT OF THE CASE.....1

STATEMENT OF THE FACTS1

LAW AND ARGUMENT6

Proposition of Law No. I6

 The trial court properly instructed the jury of the definition of “force” in relation to the crime of Rape.

Propositions of Law Nos. II and III:7

 The State presented sufficient evidence that the victim’s ability to resist or consent to sexual conduct was substantially impaired because of her mental condition.

 The State presented sufficient evidence that the victim’s ability to apprise the nature of or control her conduct was substantially impaired.

Proposition of Law No. IV:8

 The trial court properly allowed evidence of the victim’s mental health and development from her professional caregivers.

Propositions of Law Nos. V, VI and VII:9

 The trial court properly allowed evidence from the victim’s emergency room physician.

 The trial court properly allowed evidence from the victim’s social worker.

 The admission of the physician’s testimony was proper in light of *State v. Stahl*, 111 Ohio St.3d 186, 2006-Ohio-5482, 855 N.E.2d 834.

Proposition of Law No. VIII:10

 The trial court properly excluded evidence of prior lies and fabrications regarding sexual conduct.

Proposition of Law No. IX:10

 The trial court properly excluded evidence of defendant’s good character.

Propositions of Law Nos. X and XI:11

 The defendant’s statutory right to speedy trial was not violated.

 The defendant’s constitutional right to speedy trial was not violated.

Propositions of Law Nos. XII and XIII:11

 The indictment against this defendant was not ambiguous.

 The jury was properly instructed on unanimous findings guilt.

Proposition of Law No. XIV:12

 The Sexual Battery statute prohibiting sexual conduct between parents and their adopted children is constitutional.

Proposition of Law No. XV:12

 The defendant was not deprived of his constitutional right to the effective assistance of counsel.

CONCLUSION.....14

SERVICE.....15

WHY THIS COURT SHOULD NOT ACCEPT JURISDICTION

Ohio law relevant to this case is well established and was properly applied by the trial and appellate courts. No substantial constitutional question and no matter of public or great general interest is presented, therefore, this Supreme Court need not grant jurisdiction.

STATEMENT OF THE CASE

Defendant-Appellant James Brady was charged by the Cuyahoga County Grand Jury with twelve counts of Rape and twelve counts of Sexual Battery.

The case proceeded to a trial by jury and at the conclusion of the evidence, Brady was found guilty of two counts of Rape and two counts of Sexual Battery. He was acquitted of four counts of Rape and four counts of Sexual Battery and the jury was hung with respect to the remaining twelve counts. Post-trial Brady moved to dismiss with prejudice the remaining twelve charges. A hearing was held and his motion was granted due to double-jeopardy constraints.

At Brady's sexual offender classification and sentencing hearing he was classified a sexually oriented offender and was sentenced to three years on each Rape and one year on each Sexual Battery, with the time to be served concurrently, plus a five-year period of post-release control.

Brady appealed his convictions to the Eighth District Court of Appeals and assigned seventeen errors; however his convictions were affirmed. *State v. Brady*, Cuyahoga App. No. 87854, 2007-Ohio-1453. Presently Brady seeks further review in this Supreme Court.

STATEMENT OF THE FACTS

James Brady raped and sexually assaulted his adopted daughter, a forty-one year old mentally handicapped woman.

The State's Case included the following: Victim: Roseanne Brady testified that in 2002 she was living with her parents, Marge and James Brady. At that time Roseanne maintained a cleaning job under the supervision of Nate Hart. She reported to work at one in the afternoon. Nate would drive Roseanne and her co-workers home at seven in the evening. James Brady would wake Roseanne up in time for work.

At a point in 2002, Roseanne became uncomfortable living at home because of her father, James Brady. Roseanne described an occasion when Brady came to her after she had been taken a bath, removed his robe, and began kissing her "below" and "vagina." Roseanne testified that Brady put his penis inside her and that she was scared when "white stuff came out". She stated that Brady told her that it would make her "feel good" and make her "calm down a little bit." Roseanne described an occasion when Brady made her kiss his penis. She testified that the "white stuff" came out that tasted "kind of yucky" and she had to spit it out in the toilet. She also testified that Brady made her kiss him on the lips, and that he had kissed her vagina and her breast.

Roseanne indicated that she talked to Lisa about what had happened to her—that her father had put his penis inside her. She said Lisa sent her to the hospital. Roseanne stated that she does not see her family any more, which makes her sad, and that most of all she misses her nieces and nephew. Roseanne testified that her mother now visits her and that her mother is in charge of her money. Since moving out, Roseanne has sent cards to her parents. She was afraid to report what had happened to her because she was thought no one would believe her, or that they might blame her. But she reiterated that her testimony about her father was the truth.

Victim's Supervisor: Nathaniel Hart, an employee of the Cuyahoga County Board of Mental Retardation and Developmental Disability, testified that he supervises individuals and

mentors them, teaching them how to work as cleaners. Hart testified that he worked with Roseanne Brady for approximately three years and she became one of the best workers.

In late summer of 2002 Hart noticed a change in Roseanne's moods—she had become less friendly and would have a negative attitude about doing her job, “which was totally uncharacteristic of her.” Hart testified that, by fall of that year, Roseanne would become tearful, upset, and afraid when it was time to go home. He stated that this repeated over a number of days so he reported it to his supervisor, Jim Cable.

Hart described the changes he saw in Roseanne's appearance, “She lost a lot of weight. She just – her appearance went down. She was always tearful. It was just not the same person we knew.” Hart testified that after Roseanne was referred to the psychologist she became even more different. “She was totally different.” “She would lie but quickly recanted it. She would come to me and say I'm sorry. It never happened like that and, you know, that was something before that never took place. She never lied before. At least she never lied to me before.”

MRDD Supervisor: Jim Cable, an employment supervisor with the county MRDD, testified that he is Nathaniel Hart's supervisor and that he thinks very highly of Hart. Cable met with Roseanne and found her tearful and upset. Cable contacted psychologist Lisa Gessler, who later met with Roseanne. Cable learned that Roseanne made allegations against her father—so Cable took measures to find Roseanne a safe place to stay. Cable noticed changes in Roseanne after her reporting of these crimes. She became “very moody” and “obviously upset” and “difficult to work with” and “bitter” and “sad.” In comparison Cable stated, “From what I had known for all those previous years, that was very uncharacteristic of her, yeah.”

Psychologist: Lisa Gessler, a psychology assistant with the county MRDD, testified that in her meeting Roseanne was “sobbing. She was crying very heavily.” Roseanne told Gessler

that her father had been “inappropriate with her sexually.” Gessler testified that Roseanne stated, “he touches me down below. I had to ask her what do you mean? Your privates? She said yes, *** she said he puts it in me. He doesn’t put anything on it, and I asked if she meant a condom and she said yes and then she said something about he does it hard and I keep getting infections.” Gessler reported the situation to Jeff Starr, an investigator in the Major Unusual Incident Department of MRDD, who recommended that Gessler determine whether Roseanne had a history of making false allegations. Gessler learned that Roseanne had no such history.

MRDD Investigator: Jeff Starr, investigator in the MUI department of the county MRDD, testified that he transported Roseanne to a hospital emergency room and later to the temporary housing arranged for her. Starr characterized Roseanne’s demeanor during this time as “upset”, “crying”, and “afraid.”

Emergency Room Physician: Doctor Debra Russell, M.D., testified that she was the physician who examined Roseanne and that she learned that several days earlier Brady had put his penis inside of Roseanne. Roseanne told her that she pushed her father’s face away and told him to stop but he would not stop. Dr. Russell also learned that there were a number of times when Brady made Roseanne kiss his penis and he kissed her genital area. Roseanne told Dr. Russell that Brady ejaculated when he had intercourse with her. During the pelvic examination, Dr. Russell noted that Roseanne had tenderness and swelling throughout but particularly in the deeper area near the cervix—and that infection was ruled out as a cause of the inflammation.

The Defense included the following: Witness: Diane Royle testified that she is a friend of the Brady family and that she did not notice any change in Roseanne’s behavior.

Witness: Mary Rose Palfy, a direct care worker, testified that she worked with Roseanne, making sure she was taking care of herself, and would drive Roseanne to work. Occasionally, Roseanne would lie about whether or not she had showered for the day.

Witness: Michelle Schoenhofer, a special education teacher who provided respite care for Roseanne testified that Roseanne frequently lied.

Defendant's Daughter: Heather Brady Ginley, James' daughter and Roseanne's half-sister, testified that Roseanne would lie and that she would have to check out the truthfulness of things she heard from Roseanne.

Defendant's Daughter: Dawn Brady Connor, James' daughter and Roseanne's half-sister, testified that Roseanne "had a very hard time telling the truth." Connor gave examples of Roseanne lying about whether she had remembered to use toilet paper after using the restroom, and about whether she had taken a shower.

Defendant's Wife: Margaret A. Brady testified that she met and married James Brady and that he adopted her two children, Jeff and Roseanne. She explained that, as a child, Roseanne had a medical condition called PKU that caused her disability. Mrs. Brady testified that she has often confronted Roseanne about lying and that Roseanne would lie about whether she had taken a shower. Mrs. Brady testified that Roseanne was not adept at managing personal hygiene and that she would frequently develop yeast infections, which resulted in her inappropriate public scratching. She stated that Roseanne presently has twenty-four hour care—which she will need for the rest of her life.

Defendant: Brady testified that he first met Roseanne when she was nine years old. He estimated that, as an adult, Roseanne functions at approximately the level of a thirteen-year-old child. Brady denied ever having sex with Roseanne. Brady admitted that, when he was

interviewed at the police station, he accused Nate Hart of raping Roseanne and he referred to Hart in saying “that nigger has ruined my family and my life.”

State’s Rebuttal: Victim’s Caregiver: Annette Byers, a caregiver, testified that she would check on Roseanne and give her a ride to work. Byers testified that Roseanne requires twenty-four hour care and that Roseanne has fibbed to her about things such as whether she brushed her teeth. Byers did not find this unusual “because we deal with that in the MRDD community always. The hygiene issue is a big thing”. In Byers opinion Roseanne functions at the level of a twelve or thirteen-year-old.

LAW AND ARGUMENT

Proposition of Law No. I:

The trial court properly instructed the jury of the definition of “force” in relation to the crime of Rape.

Brady asserts that the trial court erred in its instruction to the jury on “force” as an element of Rape. However, as a defendant’s relationship with a victim is an appropriate factor to consider in deciding force, the jury instruction was not erroneous.

Brady did not object to the jury instruction at trial therefore the Eighth District reviewed this issue for plain error—and found none. *State v. Brady*, supra, ¶¶ 58-64. In fact, the jury instruction was not flawed. The trial court read verbatim 4 Ohio Jury Instruction 507.02(A)(1)11 and 12, which was an appropriate instruction given the facts of this case: alleged sexual conduct between an adoptive father and an adult daughter with the mental capacity of an adolescent girl.

In *State v. Eskridge* (1988), 38 Ohio St.3d 56, 526 N.E.2d 304 this Court stated, “the force and violence necessary to commit the crime of rape depends upon the age, size and strength of the parties and their relation to each other.” In *State v. Dye* (1998), 82 Ohio St.3d 323, 695 N.E.2d 763 this Court reiterated that the relevant considerations in determining the

existence of force include “the age, size, and strength of the parties and their relation to each other” as well as their “mental resources”. Id. at 328.

By no reasonable interpretation of the trial testimony in Brady’s case could the jury have found Roseanne to be Brady’s equal. By all accounts she was very much a dependent of Brady and his wife. Although Roseanne was an adult, she is mentally impaired to the point that she will never be able to live without twenty-four hour assistance. Consequently, whether Roseanne functions at the level of a twelve, thirteen, or fourteen year-old was immaterial. Rather, the jury was properly instructed to consider whether Brady used his position of trust and authority as a parent to force this mentally challenged woman to engage in sexual conduct. Accordingly further review of this issue is unnecessary.

Propositions of Law Nos. II and III:

The State presented sufficient evidence that the victim’s ability to resist or consent to sexual conduct was substantially impaired because of her mental condition.

The State presented sufficient evidence that the victim’s ability to apprise the nature of or control her conduct was substantially impaired.

Brady asserts that the evidence of Roseanne’s substantial impairment was insufficient to support his convictions of Rape under R.C. § 2907.03(A)(2) or Sexual Battery under R.C. § 2907.02(A)(1)(c). The evidence of Roseanne’s substantial impairment was: that at age forty-one Roseanne resided with her parents who provided daily physical care for her; that her father had to get her up each day and ensure that she got ready for work; that she functions somewhere around the level of young adolescent; that she frequently has to be reminded to manage personal hygiene; and that Roseanne is incapable of living on her own, and that she will always require twenty-four hour care. The fact that Brady was aware of his daughter’s substantial impairment was established through his own testimony. When asked at what level Roseanne functions Brady stated, “Well, I’m not a professional. I’ve heard the term 13 or so. Right in there.”

Contrary to Brady's assertions, it was not incumbent upon the State to prove beyond a reasonable doubt that Roseanne functioned at a level below the average thirteen-year-old. Rather, the State needed to prove that Roseanne's mental retardation left her substantially impaired and that Brady had reason to know it. Upon appeal the Eighth District correctly determined,

In this matter the jury was able to assess R.B.'s ability to appraise or control her conduct. In addition, the state's evidence demonstrated that the woman functions at the level of a thirteen or fourteen year-old. Defendant's witness Royle opined that she functioned at the preteen level. It is undisputed that the woman could never drive, cook, manage money or live independently. This evidence was sufficient to enable reasonable minds to reach different conclusions as to whether her ability to appraise the nature of or control her conduct was substantially impaired.

State v. Brady, supra, ¶ 79.

The State presented sufficient evidence that Roseanne's ability to resist or consent to sexual conduct was substantially impaired because of her mental condition and that her ability to apprise the nature of or control her conduct was substantially impaired. Accordingly further review of these issues is unnecessary.

Proposition of Law No. IV:

The trial court properly allowed evidence of the victim's mental health and development from her professional caregivers.

Brady asserts that the trial court erred when it permitted evidence of the victim's mental disability through her caregivers. Citing *State v. Zeh* (1987), 31 Ohio St.3d 99, 509 N.E.2d 414, Brady alleges that the trial court should have limited the State's evidence. *Zeh* stands for the proposition that where the defense is denied an opportunity to have the victim clinically examined, the State should be prohibited from utilizing evidence of its own clinical examination. *Zeh* is inapplicable to this case—and Brady concedes that neither the defense nor the prosecution utilized expert evidence of a clinical examination in this trial.

At Brady's trial the State proved the "force" and "substantial impairment" elements of the crimes through the testimony of Roseanne's family, her employers, and her various caregivers—and allowed the jury to evaluate Roseanne for themselves when she testified at trial. No clinical or expert testimony was required. Further, As the Eighth District noted, Brady's own testimony supported the conclusion that Roseanne was limited in functioning. *State v. Brady*, supra, ¶ 96. As the trial court properly allowed evidence of the victim's mental development from her caregivers, further review of this issue is unnecessary.

Propositions of Law Nos. V, VI and VII:

The trial court properly allowed evidence from the victim's emergency room physician.

The trial court properly allowed evidence from the victim's social worker.

The admission of the physician's testimony was proper in light of *State v. Stahl*, 111 Ohio St.3d 186, 2006-Ohio-5482, 855 N.E.2d 834.

Brady asserts that the trial court erred in admitting testimony from the emergency room physician and from the social worker that had contact with the victim. The Eighth District rejected this argument and determined,

In the recent case of *State v. Stahl*, 111 Ohio St.3d 186, 2006-Ohio-5482, 855 N.E.2d 834 the Supreme Court held that where the rape victim made a statement to police, then subsequently presents herself for a medical examination for the purposes of gathering evidence of the crime and repeats the identification, the statement to medical personnel is not testimonial and may be admitted into evidence.

State v. Brady, supra, ¶ 128. Moreover, the Court properly determined that Roseanne's statements to the social worker were admissible as excited utterances. Id. at ¶¶ 130-135.

In relation to the *Crawford* issue Brady raises, the holding of the United States Supreme Court in *Crawford v. Washington* (2004), 541 U.S. 36, 124 S.Ct. 1354, 158 L.Ed.2d 177 does not affect this case. In *Crawford* the Court determined that, where testimonial statements are at issue, the only indicia of reliability sufficient to withstand constitutional demands is

confrontation. In this case Brady was able to cross-examine the declarant because Roseanne testified. Thus, his right to confrontation was not violated and further review of these issues in unnecessary.

Proposition of Law No. VIII:

The trial court properly excluded evidence of prior lies and fabrications regarding sexual conduct.

Brady contends that the trial court erred in its evidentiary rulings and in its application of Ohio's rape shield law to exclude evidence of an alleged prior fabrication. Where a defendant seeks to cross-examine a witness as to whether they previously falsely accused sexual abuse, the defendant has the burden of establishing that the accusations were totally false and unfounded. *State v. Boggs* (1992), 63 Ohio St.3d 418, 423, 588 N.E.2d 813. Upon appeal the Eighth District rejected Brady's argument finding, "The evidence was totally speculative as to whether this accusation was made, and if made, whether it was actually false and unfounded." *State v. Brady*, supra, ¶ 110. The Eighth District found no abuse of discretion. *Id.* No further review of this issue is required.

Proposition of Law No. IX:

The trial court properly excluded evidence of defendant's good character.

Brady asserts that he was unlawfully prevented from introducing evidence of his good character. Upon appeal the Eighth District reviewed this matter for an abuse of discretion and found none. *State v. Brady*, supra, ¶ 118. The trial court allowed Brady's wife and his two daughters to provide admissible "good character" evidence and the court did not err in limiting the inadmissible character evidence pursuant to R.C. § 2907.02(D).

Propositions of Law Nos. X and XI:

The defendant's statutory right to speedy trial was not violated.

The defendant's constitutional right to speedy trial was not violated.

Although he never attempted to assert his right at the trial court level, Brady contends that he was denied his constitutional and statutory right to a speedy trial. Upon appeal the Eighth District applied this Supreme Court's recent holding in *State v. Azbell*, 112 Ohio St.3d 300, 2006-Ohio-6552, 859 N.E.2d 532 and determined,

the defendant was arrested then released and no formal charges were filed until his indictment on April 30, 2004. Defendant was then released on bond following his arraignment on May 12, 2004. Accordingly, speedy trial did not begin to run at the time of defendant's arrest.

State v. Brady, supra, ¶ 49. As this issue was properly decided on appeal, no further review by this Court is warranted.

Propositions of Law Nos. XII and XIII:

The indictment against this defendant was not ambiguous.

The jury was properly instructed on unanimous findings guilt.

Brady contends that he has been denied his right to due process by the "vague and overlapping indictment" and by lack of adequate jury instructions on unanimous voting. The Eighth District found no merit in these arguments. *State v. Brady*, supra, ¶ 137-164. The appellate court reviewed the evidence and the sentence imposed and concluded, "we find sufficient evidence to support the distinct offenses." Id. at 159. Moreover, with respect to jury instructions on unanimity, the jury was provided with the verdict instructions outlined in 4 Ohio Jury Instructions 413.50. The trial court stated, "The charges set forth in each count in the indictment constitute a separate and distinct matter. You must consider each count and the evidence applicable to each count separately, and you must state your finding as to each count uninfluenced by your verdict as to the other counts that are charges here. The defendant may be found guilty or not guilty of any of the offenses charged"; and later, "Again you have to consider

the evidence with respect to each count separately and make your findings and note them on the verdict forms separately”; and later still, “Whatever your verdict is, you must be unanimous, okay?” These instructions were noted by the Eighth District, which correctly decided no plain error occurred. As these matters were thoroughly considered and properly decided, further review is unwarranted.

Proposition of Law No. XIV:

The Sexual Battery statute prohibiting sexual conduct between parents and their adopted children is constitutional.

Brady contends that the Sexual Battery statute prohibiting sexual conduct between persons who are parents, stepparents, or persons in *loco parentis* and their children, stepchildren, or wards, is unconstitutional. Upon appeal the Eighth District disagree. The appellate court quoted *State v. Benson* (1990), 81 Ohio App.3d 697, 701, 612 N.E.2d 337:

R.C. 2907.03(A)(5) prohibits incestuous conduct, defining it in broader terms than formerly, so as to include not only sexual conduct by a natural parent with his child, but also sexual conduct by a stepparent with his stepchild, a guardian with his ward, or a custodian or person in *loco parentis* with his charge. We need hardly cite authority for the obvious conclusion that this statute bears a real and substantial relation to the public morals. We further find that R.C. 2907.03(A)(5) is neither unreasonable nor arbitrary. Accordingly, the Act is not facially unconstitutional.

As the constitutionality of R.C. § 2907.03(A)(5) has been repeatedly been reviewed and upheld, this Court’s jurisdiction over the issue is not warranted.

Proposition of Law No. XV:

The defendant was not deprived of his constitutional right to the effective assistance of counsel.

Brady alleges that trial counsel was ineffective in a variety of ways. However, because he did not meet the *Strickland v. Washington* (1984), 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d

674 standard of deficient performance by counsel and resultant prejudice to the defense, the Eighth District rejected these claims on appeal. *State v. Brady*, supra, ¶¶ 171-175.

Deficient performance is established where counsel's errors were so serious that they failed to function as the counsel guaranteed to appellant by the Sixth Amendment. *State v. Hamblin* (1988), 37 Ohio St.3d 153, 524 N.E.2d 476. Prejudice is established where, but for counsel's error, the result of the trial would have been different. *State v. Bradley* (1989), 42 Ohio St.3d 136, 538 N.E.2d 373.

Brady alleges his attorney was ineffective for failing to preserve various objections. As set forth in the preceding segments, the evidence was admitted where appropriate and excluded where necessary. The jury instructions provided by the trial court were fitting and the jury's findings were reasonable in light of the record. The trial court and defense counsel protected Brady's constitutional rights. The State's evidence was sufficient to meet each and every element of the crimes charged—and, in particular, the element of "force". Moreover, the greater weight of credible evidence supported the jury's findings of guilt.

The jury heard evidence that Roseanne is Brady's adopted daughter; Roseanne is an adult, forty-one years old at the time of these offenses, with a mental disability, who resided with her parents; Roseanne seems to function at the level of a twelve or thirteen-year-old girl; Brady and his wife were Roseanne's caregivers and Brady would ensure that Roseanne got up each morning and got ready for work; Brady kissed Roseanne's genital area, her lips, and her breast; Brady put his penis inside Roseanne; Brady ejaculated; Brady made Roseanne kiss his penis; Brady told Roseanne that having sex would make her feel good and calm her down before she had to go to work; Roseanne was afraid to tell anyone about what Brady did to her; and Roseanne told the emergency room doctor that she tried to push Brady's face away from her and

she told him to stop, but he would not. Roseanne testified, “He kissed me. *** He put it inside me. *** His penis.” When asked how that made her feel, Roseanne responded “Scared. *** I didn’t know what to do.” This woman described the actions that Brady took upon her and how she was afraid of what was happening to her. Roseanne’s testimony was substantiated by the medical findings of the emergency room physician who discovered inflammation throughout Roseanne’s vaginal area, but particularly noted it deep within the area of the cervix—and other possible causes of the swelling were ruled out. Brady compelled his adopted daughter Roseanne to engage in this conduct and she felt afraid.

The Eighth District did not err in rejecting Brady’s claim of ineffective assistance of counsel and no further review of this issue by this Supreme Court is warranted.

CONCLUSION

Each of Defendant-Appellant James Brady’s four convictions was supported by sufficient, substantial, credible evidence. No reversible error occurred at trial.

The Eighth District Court of Appeals properly applied the relevant Ohio law to the facts of this case and thoroughly analyzed the errors assigned before affirming Brady’s convictions.

As no substantial constitutional questions and no matters of public or great general interest have been presented, this Court should not accept jurisdiction.

Respectfully submitted,

WILLIAM D. MASON
CUYAHOGA COUNTY PROSECUTOR

BY: 
Kristen L. Sobieski (0071523)
Assistant Prosecuting Attorney
1200 Ontario Street, 8th Floor
Cleveland, Ohio 44113
216.443.7800

SERVICE

A copy of the foregoing Memorandum in Response has been mailed this 16th day of July 2007 to Kevin M. Spellacy, 614 West Superior Avenue, #1300, Cleveland, Ohio 44113.


Assistant Prosecuting Attorney