

IN THE SUPREME COURT OF OHIO

STATE OF OHIO :
Plaintiff-Appellee :
v. :
VINCENT COLON :
Defendant-Appellant :

S.C. Case No. 2006-2139
2006-2250

MOTION OF THE CLARK COUNTY PROSECUTOR'S OFFICE TO FILE AN
AMICUS CURIAE MEMORANDUM IN SUPPORT OF APPELLEE'S MOTION
FOR RECONSIDERATION

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CLERK OF COURT
SUPREME COURT OF OHIO

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Now comes The Clark County Prosecutor's Office and hereby moves this Court to accept for filing its amicus curiae memorandum in support of Appellee, State of Ohio's motion for reconsideration.

The Court accepted the parties' agreement that the *mens rea* for R.C. § 2911.02(A)(2) was "recklessness" pursuant to R.C. § 2901.21(B). However, as this is a matter of first impression, The Clark County Prosecutor's Office respectfully requests this Court independently analyze the proper *mens rea* for R.C. § 2911.02(A)(2).

This Court analyzed the legislative intent in concluding that a strict liability degree of culpability applied to R.C. § 2911.02(A)(1). The Clark County Prosecutor's Office suggests that the Legislature would not have written two subsections within the same statute with two different degrees of culpability without expressly stating the different degrees. The Clark County Prosecutor's Office requests this Court to independently analyze R.C. § 2911.02(A)(2) to determine whether the Legislature intended that a strict liability degree of culpability apply.

Respectfully,



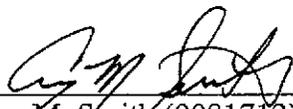
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CERTIFICATE OF SERVICE

This is to certify that a copy of this Motion was mailed by regular U.S. mail to all interested parties as listed on the cover page on this 21st day of April, 2008.



Amy M. Smith (0081712)
Asst. Clark County Prosecutor