

NO. 07-1427

IN THE SUPREME COURT OF OHIO

APPEAL FROM
THE COURT OF APPEALS FOR CUYAHOGA COUNTY, OHIO
NO. 87655

STATE OF OHIO,

Plaintiff-Appellee

-vs-

ANDREW FERGUSON,

Defendant-Appellant

MOTION TO REVERSE AND REMAND WITHOUT HEARING

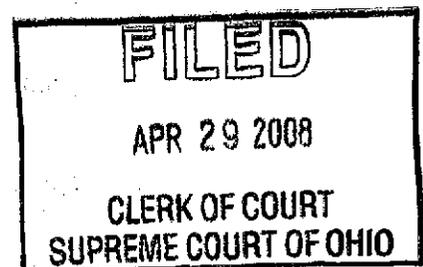
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The State of Ohio respectfully requests this Honorable Court to reverse and remand the instant appeal, without hearing. The question before this Court has been squarely answered by this Court in *Hyle v. Porter*, 117 Ohio St.3d 165, 2008-Ohio-542. Additionally, most sex offenders who would have been affected by the amendments of Senate Bill 5 and the decision by this Court in the case sub judice fall within the retroactive application of Ohio's recently-enacted Adam Walsh Act. Furthermore, the State has no expectation that this Court will address that argument herein since this Court did not address the ex post facto argument in *Hyle*. Therefore, the State of Ohio respectfully requests this Court to reverse and remand in light of *Hyle*. Moreover, this matter must be remanded to the Eighth District Court of Appeals because the lower court failed to address whether the amendments to Ohio Megan's Law by S.B. 5 violate Art. II, Sec. 28 of the Ohio Constitution as retroactive legislation.

For these reasons, the State of Ohio respectfully requests this Court to reverse the decision of the lower court and remand, without hearing, in accordance with this Court's recent precedent of *Hyle v. Porter*, 117 Ohio St.3d 165, 2008-Ohio-542.

Respectfully submitted,

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SERVICE

A copy of the foregoing Motion to Reverse and Remand has been mailed this 29th day of April, 2008, to John Martin and Cullen Sweeney, 310 Lakeside Avenue, 2nd Floor, Cleveland, Ohio 44113.

BY S. MAHER
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