

**IN THE SUPREME COURT OF OHIO**  
**2008**

STATE OF OHIO,

Plaintiff-Appellee,

-vs-

GUY METTLE,

Defendant-Appellant.

Case No. 2008-921.

On Appeal from the  
Franklin County Court  
of Appeals, Tenth  
Appellate District

Court of Appeals  
Case No. 2008-892

**MEMORANDUM OF PLAINTIFF-APPELLEE OPPOSING DEFENDANT-  
APPELLANT'S MOTION FOR RECONSIDERATION**

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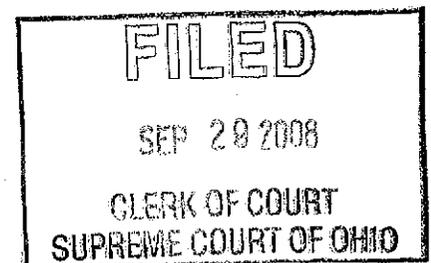
And

KIMBERLY BOND 0076203  
Assistant Prosecuting Attorney  
(Counsel of Record)

COUNSEL FOR PLAINTIFF-APPELLEE

GUY METTLE  
2715 Collinford Drive, #K  
Dublin, Ohio 43016  
614/432-6000

DEFENDANT-APPELLANT, PRO SE



**MEMORANDUM OF PLAINTIFF-APPELLEE STATE OF OHIO  
OPPOSING DEFENDANT-APPELLANT'S MOTION FOR RECONSIDERATION**

Defendant stands convicted for non-support of dependents, a fourth-degree felony. It was undisputed that the victim of the crime was defendant's minor son. Over the State's objection, the trial court granted defendant's application to seal the record of this conviction. On appeal, the Tenth District found that the expungement was improper given the exclusion in R.C. 2953.36 precluding the expungement of conviction when the victim was a minor. *State v. Mettle*, 10<sup>th</sup> Dist. No. 07AP-892, 2008-Ohio-1425.

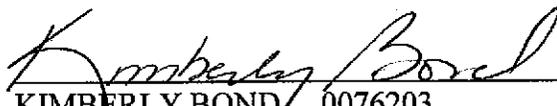
This Court declined jurisdiction on September 10, 2008, finding the case did not involve any substantial question of constitutional law. Defendant has now filed a motion for reconsideration of that decision.

This Court's decision was well founded. Sealing the record of a conviction is governed by statute. And, as this Court has previously recognized, "R.C. 2953.36 provides that the conviction records of some offenders cannot be sealed." *State v. Simon* (2000), 87 Ohio St.3d 531, 533. Defendant's crime fell within R.C. 2953.36(D), now identified as R.C. 2953.36(F), which prohibits sealing the record of a conviction when a minor was victimized by the crime. Defendant's arguments regarding legislative intent or interpretation lack meaning here as the plain language of the statute prohibited the expungement of this record.

It is respectfully submitted that defendant's motion for reconsideration should be declined.

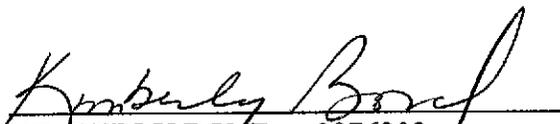
Respectfully submitted,

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**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing was sent by regular U.S. Mail, this day, September 29, 2008, to Guy Mettle, defendant pro se, at 2715 Collinford Drive, #K, Dublin, Ohio 43016.

  
KIMBERLY BOND 0076203  
Assistant Prosecuting Attorney