

ORIGINAL

IN THE SUPREME COURT
OF THE
STATE OF OHIO

STATE OF OHIO,
Appellee,

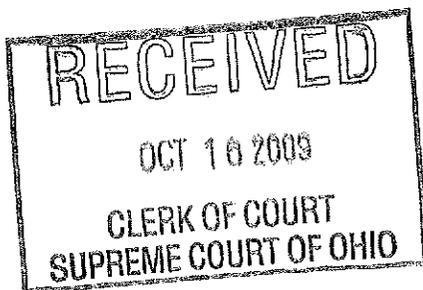
CASE NO. 09-1693

-vs-

Court of Appeals No. C-080929
Trial Case No. B-0408159A

DAVID FOSTER,
Appellant.

MOTION TO CERTIFY CONFLICT



MOTION TO CERTIFY CONFLICT
ON BEHALF OF APPELLANT DAVID FOSTER

Joseph T. Deters #0012084P
Hamilton County Prosecutor

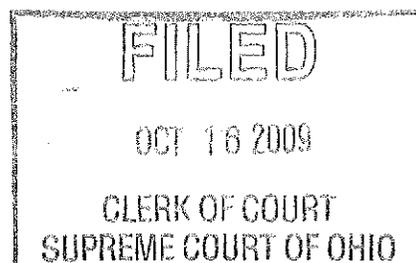
David Foster
CCI #495-541

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Counsel for the State of Ohio

Prose



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Now comes Defendant-Appellant, David Foster, acting prose, moving this Honorable Court for a Motion to Certify Conflict. Mr. Foster has shown and the state agrees that a conflict does exist with the First Appellate District and other courts of appeals on the issue of whether judges may add-on to ten-year sentences pursuant to the MDO specifications of R.C. 2929.14(D)(3)(b).

Mr. Foster has filed two motions to certify conflict with the First Appellate District. The first was dismissed June 24, 2009 as premature. The second was dismissed October 1, 2009 as untimely due to counsel's failure to notify Mr. Foster of the judgment. Mr. Foster is now pending in the First District on an Application For Reconsideration for his Motion To Certify Conflict pursuant to App. R. 26A. Notwithstanding, Mr. Foster is also pending in the Ohio Supreme Court in his Memorandum In Support Of Jurisdiction on the very same issue.

Therefore, Mr. Foster asks this Court to determine that a conflict does exist and order the issue to be briefed.

Respectfully submitted,

David Foster

David Foster, pros

CCI #495-541

P.O. Box 5500

Chillicothe, Ohio 45601

Certificate of Service

I hereby certify that a copy of the foregoing Motion To Certify Conflict was sent by ordinary U.S. mail to the Prosecuting Attorney at 230 East Ninth Street, Suite 4000, Cincinnati, Ohio 45202 on this 14 day of October, 2009.

David Foster

David Foster