

ORIGINAL

IN THE SUPREME COURT OF OHIO

10-0350

JOSEPH M. CARDAMONE,

Appellant,

vs.

STATE OF OHIO,

Appellee.

On Appeal from the Cuyahoga
County Court of Appeals,
Eighth Appellate District

Court of Appeals
Case No. CA-08-92235

NOTICE OF APPEAL OF APPELLANT JOSEPH M. CARDAMONE

JOSEPH M. CARDAMONE A-553-473
Lake Erie Correctional Institution
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Pro se

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COUNSEL FOR APPELLEES

RECEIVED
FEB 25 2010
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
FEB 25 2010
CLERK OF COURT
SUPREME COURT OF OHIO

Notice of Appeal of Appellant Joseph M. Cardamone

Appellant Joseph M. Cardamone hereby gives notice of appeal to the Supreme Court of Ohio from the judgment of the Cuyahoga County Court of Appeals, Eighth District, entered in Court of Appeals case no. CA0892235 on October 8, 2009.

This case raises a substantial constitutional question and is one of great public or general interest and involves a felony.

Respectfully submitted,



Joseph M. Cardamone A-553-473

Certificate of Service

I certify that a copy of this Notice of Appeal was sent by ordinary U.S. mail to counsel for Appellees, William D. Mason, Cuyahoga County Prosecutor, 1200 Ontario Street Cleveland, Ohio 44113.



Joseph M. Cardamone

Pro se

MEMORUNDUM IN SUPPORT

Now comes the Defendant Joseph M. Cardamone in *pro se* capacity and hereby moves that this Honorable Court recognize his Notice of Appeal, of The Eighth District Court of Appeals decision rendered on October 8th 2009, case no. CA-08-92235.

The Defendant would like to raise an issue of “ineffective assistance of appellate counsel”, se *Strickland vs. Washington (1984) 466 US 668, 667-688 104 S CT: 2052, 80 L Ed. 2d 647*. Defendant contends that appellate counsel missed several assignments of errors, this making his direct appeal brief insufficient and prejudicing and violating his Constitutional Rights.

The Defendant would ask that new counsel be appointed on the grounds of “ineffective assistance of appellate counsel”.

One of the assignments of errors would fall under EVIDENCE RULE 613. The witness singed a statement which did not implicate the Defendant in sharing the same mindset of committing, or profiting from the crime . However during testimony, the witness had added to her testimony saying that the Defendant had prior knowledge of the crime, which was not in her initial statement prepared by the Cuyahoga Co. Sheriffs Office. She was asked if there was anything she wished to add to her statement or anything she could remember. She answered no and singed the statement.

Not only was her statement and testimony inconsistent, it was clearly self serving on the fact that she agreed to testify in exchange for a (2) two year prison sentence.

The witnesses should have been impeached and her testimony should have been inadmissible in court and would also fall under the HERESAY RULE 802 as well.

The Defendant would also be raising issues that fall under The Ohio Rules of Professional Conduct.

The Defendant believes that there was an issue of Judicial Misconduct, by making statements to prospective jurors at the end *voir dire*. His comment, being "don't GOOGLE Joe Cardamone". By saying that the Defendant believes that the Judge was indirectly telling the prospective jurors to in fact "GOOGLE" the Defendant, and prejudicing the Defendant in such a way that an injustice was bestowed upon the Defendant.

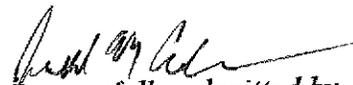
CONDUCT RULE 3.5 (a) (1) A lawyer/Judge shall not do any of the following: seek to influence a judicial officer, juror, prospective juror, or other official by means prohibited by law.

CONDUCT RULE 3.6(a) A lawyer/Judge who is participating or has participated in the investigation or litigation of a matter shall not make an extra judicial statement that the lawyer/Judge *knows* or *reasonably should know* will be disseminated by means of public communication and will have a *substantial* likelihood of materially prejudicing an adjudicative proceeding in the matter.

The Defendant also lacks the means to pay for any fees that might be affiliated with the appeal process, and is indigent as a matter of law.

Furthermore, it is vital that the Defendant have his own copy of all trial proceedings including *voir dire*, opening statements, bench conferences, jury instructions, closing arguments, and sentence proceedings.

The Defendant would like to take the time to thank this Honorable Court for its time and attention to this matter.


Respectfully submitted by

Joseph M. Cardamone

#A553-473

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