

ORIGINAL

IN THE SUPREME COURT OF OHIO
2010

STATE OF OHIO,

Case No. 2010-639

Plaintiff-Appellant/Cross-Appellee

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

vs.

COREY HAZEL,

Court of Appeals Case Nos.
09AP-1132, 09AP-1133,
09AP-1156, 09AP-1157

Defendant-Appellee/Cross-Appellant.

**MEMORANDUM OF PLAINTIFF-APPELLANT/CROSS-APPELLEE
OPPOSING JURISDICTION IN CROSS-APPEAL**

RON O'BRIEN 0017245
Franklin County Prosecuting Attorney
373 South High Street-13th Fl.
Columbus, Ohio 43215
614/462-3555

And

BARBARA A. FARNBACHER 0036862
Assistant Prosecuting Attorney
(Counsel of Record)
bafarnba@franklincountyohio.gov

Counsel for Plaintiff-Appellant/Cross-Appellee

COREY HAZEL, #546-846
Chillicothe Correctional Institution
P.O. Box 5500
Chillicothe, Ohio 45601

Defendant-Appellee/Cross-Appellant

TIMOTHY YOUNG 0059200
Ohio Public Defender
250 E. Broad Street, Suite 1400
Columbus, Ohio 43215
614/466-5394

And

E. KELLY MIHOCIK 0077745
Assistant State Public Defender
Counsel of Record for Amicus Curiae

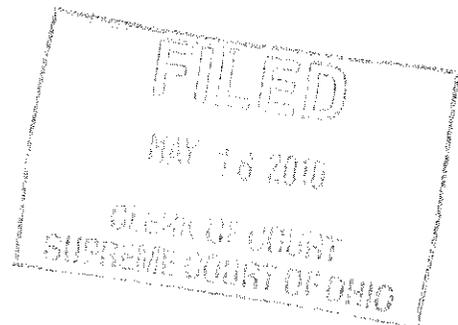


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EXPLANATION OF WHY THIS COURT SHOULD DECLINE JURISDICTION

This cross-appeal does not present any questions of such constitutional substance nor of such great public interest as would warrant further review by this Court. The issue contained in the defendant's cross-appeal was decided by this Court in *State v. Singleton*, 124 Ohio St.3d 173, 2009-Ohio-6434, paragraph two of the syllabus. This Court should decline to use its scarce judicial resources to review an issue it has already decided. It is therefore respectfully submitted that jurisdiction over the cross-appeal should be declined.

RESPONSE TO PROPOSITION OF LAW NO. FOUR:

A DEFENDANT, WHO WAS SENTENCED AFTER JULY 11, 2006 AND WHOSE SENTENCE FAILS TO PROPERLY INCLUDE POSTRELEASE CONTROL, SHALL BE RESENTENCED IN ACCORDANCE WITH R.C. 2929.191.

The defendant was sentenced in these cases in March 2007. He therefore is not entitled to de novo resentencing. R.C. 2929.14(F)(1) provides that "the failure of a court to include a post-release control requirement in the sentence pursuant to this division does not negate, limit or otherwise affect the mandatory period of post-release control that is required for the offender under division (B) of section 2967.68 of the Revised Code." And R.C. 2929.191 applies to the defendant's case and provides for a limited resentencing proceeding to correct the judgment respecting the alleged post-release control error only. *State v. Singleton*, 124 Ohio St.3d 173, 2009-Ohio-6434, paragraph two of the syllabus. "For criminal sentences imposed on and after July 11, 2006, in which a trial court failed to properly impose postrelease control, trial courts shall apply the procedures set forth in R.C. 2929.191." *Id.* Accordingly, this Court should decline to exercise jurisdiction over the defendant's proposition of law, as the issue presented was decided by this Court in *Singleton*, and no further review of this issue is warranted.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the within cross-appeal does not present questions of such constitutional substance nor of such great public interest as would warrant further review by this Court. It is therefore respectfully submitted that jurisdiction over the issue raised in the cross-appeal should be declined.

Respectfully submitted,

RON O'BRIEN 0017245
Prosecuting Attorney



BARBARA A. FARNBACHER 0036862
Assistant Prosecuting Attorney
373 South High Street-13th Fl.
Columbus, Ohio 43215
614/462-3555
bafarnba@franklincountyohio.gov

Counsel for Plaintiff-Appellant/Cross-Appellee

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing was sent by regular U.S. Mail, this day, May 18th, 2010, to Corey Hazel, #546-846, Chillicothe Correctional Institution, P.O. Box 5500, Chillicothe, Ohio 45601, and to E. Kelly Mihocik, Assistant State Public Defender, at 250 East Broad Street, Suite 1400, Columbus, Ohio, 43215.



BARBARA A. FARNBACHER 0036862
Assistant Prosecuting Attorney