

ORIGINAL

IN THE
SUPREME COURT OF OHIO

11-0818

STATE OF OHIO

Appellant

vs.

SANDRA GRIFFIN

Appellee

On Appeal from the
Coshocton County Court
of Appeals, Fifth Appellate
District

Court of Appeals
Case Number 09 CA 0021

AMICUS CURIAE OHIO PROSECUTING ATTORNEYS ASSOCIATION
MEMORANDUM IN SUPPORT OF JURISDICTION

Jason W. Given (0074647)
Coshocton County Prosecuting Attorney
318 Chestnut Street
Coshocton, Ohio 43812
(740) 622-3566

COUNSEL FOR APPELLANT

Office of the Ohio Public Defender
250 East Broad Street, Suite 1400
Columbus, Ohio 43215
(614) 466-5394
And
Stephen P. Hardwick (0062932)
Assistant Public Defender

COUNSEL FOR APPELLEE

Joseph T. Deters (0012084P)
Prosecuting Attorney
Philip R. Cummings (0041497P)
Assistant Prosecuting Attorney
230 East Ninth Street, Suite 4000
Cincinnati, Ohio 45202
phil.cummings@hcpros.org
(513) 946-3012
Fax No. (513) 946-3021

COUNSEL FOR AMICUS CURIAE,
OHIO PROSECUTING ATTORNEYS ASSOCIATION

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STATEMENT OF AMICUS INTEREST

The Ohio Prosecuting Attorneys Association (“OPAA”) offers this amicus brief in support of the State of Ohio’s memorandum in support of jurisdiction. The OPAA is a private non-profit membership organization that was founded in 1937 for the benefit of the 88 elected county prosecutors. Its mission is to increase the efficiency of its members in the pursuit of their profession, to broaden their interest in government, to provide cooperation and concerted action on policies that affect the office of the Prosecuting Attorney, and to aid in the furtherance of justice.

EXPLANATION OF WHY THIS CASE IS A CASE OF PUBLIC OR GREAT GENERAL INTEREST

The Ohio Prosecuting Attorneys Association (“OPAA”) supports Plaintiff-Appellant State of Ohio’s Memorandum in Support of Jurisdiction and urges this Court to grant jurisdiction. This case is of public and great general interest because it provides this Court with an opportunity to clarify, if not overrule, *State v. Baker*.¹ In *Baker*, this Court, in an admirable attempt to guide trial courts in complying with Crim. R. 32(C), used unnecessary surplusage which has caused statewide confusion regarding the finality of a judgment of conviction.² This *Griffin* case offers the Court a vehicle to clarify the actual requirements of Crim. R. 32(C) before inferior courts fan the flames of confusion by issuing conflicting decisions reflecting disparate interpretations of *Baker*.

Recently, in *State v. Johnson*,³ this Court resolved the confusion over Ohio’s allied

¹ 119 Ohio St.3d 197, 2008-Ohio-3330 893 N.E.2d 163.

² See, e.g., *State v. Mitchell*, 187 Ohio Spp.3d 315, 2010-Ohio-1766, 931 N.E.2d 1157 (holding that a judgment of conviction that does not comply with *Baker* is not a final appealable order); *State v. Tuggle*, Lucas App. No. L-09-1317, 2010-Ohio-4162, ¶ 4 (“appellant’s original appeal is a legal nullity, and this appeal following resentencing is appellants’ first appeal as of right”).

³ 128 Ohio St.3d 153, 942 N.E.2d 1061, 2010-Ohio-6314

offense jurisprudence which had raged since 1999 when *State v. Rance*⁴ was decided. The *Griffin* case is quite an appropriate vehicle to clarify Ohio's "final judgment" jurisprudence before inferior courts embark on a similar 11-year odyssey of uncertainty.

STATEMENT OF THE CASE AND FACTS

The OPAA joins in Plaintiff-Appellant's Statement of the Case and Facts as presented in its Memorandum in Support of Jurisdiction.

AMICUS CURIAE PROPOSITION OF LAW NO. 1

CRIM. R. 32(C) DOES NOT REQUIRE A TRIAL COURT TO SPECIFY THE "MANNER OF CONVICTION" AS A PREREQUISITE FOR A FINAL APPEALABLE ORDER.

ARGUMENT IN SUPPORT OF PROPOSITION OF LAW

In *State v. Baker*,⁵ this Court held that a judgment of conviction that does not indicate the manner of conviction does not comply with Crim. R. 32(C) and is not a final appealable order. But Crim. R. 32(C) does not require that the "manner of conviction" be indicated for purposes of the finality of a judgment of conviction. Because *Baker* undermines the essential bedrock principle of finality, it is causing statewide confusion and unnecessary litigation. *Baker* must be clarified in *Griffin* to rectify this inadvertent consequence of the *Baker* decision.

Crim. R. 32(C) reads as follows:

"A judgment of conviction shall set forth the plea, the verdict, or findings, upon which each conviction is based, and the sentence. Multiple judgments of conviction may be addressed in one judgment entry. If the defendant is found not guilty or for any other reason is entitled to be discharged, the court shall render judgment accordingly. The judge shall sign the judgment and the clerk shall enter it on the journal. A judgment is effective only when entered on the journal by the clerk."

⁴ (1999), 85 Ohio St.3d 632, 710 N.E.2d 699

⁵ 119 OhioS t.3d 197, 2008-Ohio-3330, 893 N.E.2d 163

So, a final appealable order (judgment of conviction) requires only: (1) the guilty plea, the jury verdict, or the finding of the court upon which the conviction is based; (2) the sentence; (3) the signature of the judge; and (4) entry on the journal by the clerk of court.

But in *Baker*, this Court stated:

“... a trial court is required to sign and journalize a document memorializing the sentence *and the manner of conviction*: a guilty plea, a no contest plea upon which the court has made a finding of guilt, a finding of guilt based upon a bench trial, or a guilty verdict *resulting from a jury trial*.”⁶

By using this language in *Baker*, this Court has caused inferior courts to interpret *Baker* as adding another requirement now for a final, appealable order: “the manner of conviction”. The result has been to undermine confidence in the finality of convictions and to spark unnecessary and inefficient litigation regarding judgments of conviction once considered solid.

Public policy dictates that there be an end to litigation; that those who have contested an issue shall be bound by the results of the contest, and that matters once tried shall be forever settled as between the parties.⁷ The Criminal Rules are intended to provide for the just determination of every criminal proceeding, and be construed and applied to secure the fair, impartial, speedy, and sure administration of justice, simplicity in procedure and the elimination of unjustifiable expense and delay.⁸

Because *Baker* is being read to require a trial court to specify the “manner of conviction” to enter an appealable order, it is undermining the finality of judgments statewide and the Crim. Rules themselves. For these reasons, this Court must clarify *Baker*.

In sum, Crim. R. 32(C) simply does not require a trial court to specify the “manner of conviction”. Rather, it requires only the judgment of conviction to set forth the plea, the verdict,

⁶ *Baker*, at 893 N.E.2d 163.

⁷ *State v. Szeftcyk* (1996), 77 Ohio St.3d 93, 95, 671 N.E.2d 233, 235.

⁸ Crim. R. 1(B)

or findings, upon which each conviction is based, and the sentence. This Court should grant jurisdiction in *Griffin* to make clear that the reference to the "manner of conviction" is not an additional Crim. R. 32(C) requirement for the entry of a final appealable order.

CONCLUSION

The Ohio Prosecuting Attorneys Association, Amicus Curiae, joins the State of Ohio in asking this Court to accept jurisdiction and allow this appeal.

Respectfully,

Joseph T. Deters, 0012084P
Prosecuting Attorney



Philip R. Cummings, 0041497P
Assistant Prosecuting Attorney
230 East Ninth Street, Suite 4000
Cincinnati, Ohio 45202
Phone: (513) 946-3012

Attorneys for Appellant, State of Ohio

PROOF OF SERVICE

I hereby certify that I have sent a copy of the foregoing Memorandum in Support, by United States mail, addressed to Jason W. Given (0074647), Coshocton County Prosecuting Attorney, 318 Chestnut Street, Coshocton, Ohio 43812 & Stephen P. Hardwick (0062932), Assistant Public Defender, Office of the Ohio Public Defender, 250 East Broad Street, Suite 1400, Columbus, Ohio 43215, this 2 day of May, 2011.



Philip R. Cummings, 0041497P
Assistant Prosecuting Attorney