

ORIGINAL

IN THE SUPREME COURT OF OHIO

REGINALD COOK,

Appellee,

-vs-

STATE OF OHIO,

Appellant.

Case No.: 11-0594

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

Court of Appeals  
Case No. 10AP-641

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**MEMORANDUM OF APPELLEE REGINALD COOK  
OPPOSING STATE'S MOTION FOR RECONSIDERATION**

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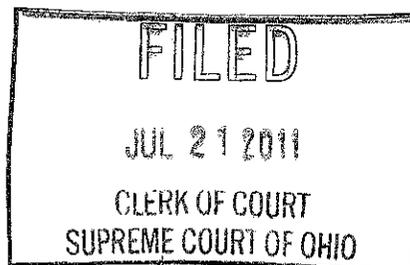
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**MEMORANDUM OF APPELLEE REGINALD COOK  
OPPOSING STATE'S MOTION FOR RECONSIDERATION**

In *State v. Williams*, Slip Opinion No. 2011-Ohio-3374, this Court conclusively resolved retroactivity issues arising from the enactment of Senate Bill

10.. In *Williams*, the Court held in syllabus:

“2007 Am.Sub.S.B. No. 10, as applied to defendants who committed sex offenses prior to its enactment, violates Section 28, Article II of the Ohio Constitution, which prohibits the General Assembly from passing retroactive laws.”

The Court went on to explain its holding in clear and unqualified language:

“{¶ 21} The General Assembly has the authority, indeed the obligation, to protect the public from sex offenders. It may not, however, consistent with the Ohio Constitution, “impose[] new or additional burdens, duties, obligations, or liabilities as to a past transaction.” *Pratte*, 125 Ohio St.3d 473, 2010-Ohio-1860, 929 N.E.2d 415, at ¶ 37. If the registration requirements of S.B. 10 are imposed on Williams, the General Assembly has imposed new or additional burdens, duties, obligations, or liabilities as to a past transaction. ***We conclude that S.B. 10, as applied to Williams and any other sex offender who committed an offense prior to the enactment of S.B. 10, violates Section 28, Article II of the Ohio Constitution, which prohibits the General Assembly from enacting retroactive laws.***”

(Emphasis added.)

In the wake of this holding, there is absolutely no need for this Court to reconsider its decision declining jurisdiction in the State's appeal here. The Adam Walsh Act does not, and cannot, apply to Reginald Cook. The State's hypertechnical procedural argument does nothing to change this.

The State's motion raises only a hypertechnical procedural argument that is nothing more than a request to engage in the debate of a moot point. This Court strictly limits requests for reconsideration. "A motion for reconsideration shall be confined strictly to the grounds urged for

reconsideration [and] shall not constitute a reargument of the case \* \* \*." S.Ct.Prac.R. XI(2)(A). This rule is consistent with the standard applicable to reconsideration motions filed with the courts of appeals. The standard to be applied to such motions is "whether the motion \* \* \* calls to the attention of the court an obvious error in its decision or raises an issue for \* \* \* consideration that was either not considered at all or was not fully considered by us when it should have been." *Columbus v. Hodge* (1987), 37 Ohio App.3d 68, 523 N.E.2d 515, citing *Matthews v. Matthews* (1981), 5 Ohio App.3d 140, 5 OBR 320, 450 N.E.2d 278, paragraph two of the syllabus.

Reconsideration "provides a mechanism by which a party may prevent miscarriages of justice that could arise when an appellate court makes an obvious error or renders an unsupportable decision under the law." *State v. Owens* (1996), 112 Ohio App.3d 334, 336, 678 N.E.2d 956. An application for reconsideration may not be used where a party simply disagrees with the appellate court's logic or conclusions. *Id.*

The State has not met the standard. In the wake of *Williams*, this Court should reject the request and allow its denial of jurisdiction to stand.

Respectfully submitted,

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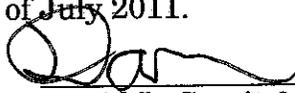
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### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Memorandum Opposing Reconsideration was served upon Steven L. Taylor, Assistant Franklin County Prosecuting Attorney, 373 South High Street, Columbus, OH 43215, by hand delivery this 21<sup>st</sup> day of July 2011.



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