ORIGINAL

IN THE SUPREME COURT OF OHIO

Case No. 2011 - 0882
11 - 1271

Earl Ingels
Petitioner

vs

State of Ohio
Appellant

FILED
NOV 14 2011
CLERK OF COURT
SUPREME COURT OF OHIO

MOTION FOR RECONSIDERATION

Petitioner is seeking a motion for reconsideration pursuant to S. Ct. Pra. 11.2(A) and (B) (3) pursuant to the Dis missile of Petitioner request for this Court To take up Jurisdiction on a Constitutional questions raised by the denial of the First District Court of Appeals in Part to grant a New Trail / Re-sentencing of Petitioner based on a recognized void verdict admitted by the Appellant (Prosecutor and a Jurist in the First District Court of Appeals. The admission of a Void Sentence was made by the Prosecutor in their Brief filing in the Appeals Court page 4 paragraph 1. The acknowledgment of a Void Sentence was admitted to and explained by a Dissenting Jurist in the Courts Opinion dated June 17 2011 Case No. C – 100297

We believe there are at least Three Constitutional Issues contained in the actions by the lower courts. The First is a central question that affects ALL Ohioan. Does the Common Pleas Courts in Ohio have the authority to create and impose a sentence on a Defendant which sentence is Contrary to Law and is not apart of the Ohio Revised Code as was done to the Petitioner in this case. The answer should be a simple and clearly NO, but based on the Lower Court Rulings through to this court this in not the case. This action posed a great threat to All Citizens of Ohio, when any court can sentence a individual to a sentence that is contrary to Ohio law and the Courts of Ohio allow it to Stand. Further more in this

case the Defendant, Petitioner was given a life sentence which is Paramount to the Death Penalty due to the Defendant Age and Health Issues. Please review Memorandum in Support of Jurisdiction Page(4) Paragraph (2).

The Second Constitutional Issues to be raised here is does under Ohio Law the lower courts have the authority to ignore Higher Court Rulings and Decisions in favor of there own actions in order to circumvent the legal requirement set forth in the higher courts decisions.

The Third Constitutional Question is does the Common Pleas Court and The Appeal Court have the right to ignore Your Courts decisions and guidance when dealing with what is recognized by all as a VOID SENTENCE which is Contrary to Law ?

State of Ohio V. Earl Ingles C - 100297

FN 4 And the sentences imposed for the kidnapping offenses charged in counts one and three of the indictment in the case numbered B–9800321 are void because the trial court lacked the statutory authority to impose them. I would, therefore, vacate those sentences and remand for re sentencing.

{¶ 10} In *Smith*, the supreme court held that a "[c]conviction of a sexually violent offense cannot support the specification that the offender is a sexually violent predator as defined in R.C. 2971.01(H)(1) if the conduct leading to the conviction and the * * * specification are charged in the same indictment." FN10 The court's holding in *Smith* derived from its reading of R.C. 2971.01(H)(1) to require that a sexually-violent-predator specification be supported by a sexually-violent-offense "conviction * * * that [had] existed prior to the * * * indictment" charging the specification. FN11 **Which no such support is in this case.**

¶ 12} The Ohio Supreme Court has long recognized and has recently "reaffirmed [the] vital principle" that "[n]o court has the authority to impose a sentence that is contrary to law." FN12 And it has "consistently" held that "a sentence that is not in accordance with statutorily mandated terms is void." FN13 **A void sentence "may be reviewed at any time, on direct appeal or**

by collateral attack." FN14FN15 Thus, irrespective of a case's procedural posture, when a trial court has imposed a sentence that it had no statutory authority to impose, and the matter has come to a court's attention, the sentence must be vacated, and the defendant must be re sentenced. FN12. *State v.*

FN 12 *State v. Fischer,* 128 Ohio St. 3d 92 2010-OHIO-6238, 942 N. E. 2d 332, Par. 23 (citing *Colgrove* v. *Burns* {1964}. 175 Ohio St. 437, 438, 195 N.E. 2D 811). and State v. Smith,104 Ohio St. 3d 2004Ohio-6238, 818 N.E. 2D 283

{¶ 13} R.C. Chapter 2971, as it provided in 1998 when Ingles was sentenced, did not confer upon the trial court the authority to enhance Ingles's sentences for kidnapping as charged in counts one and three of the indictment in the case numbered B–9800321. Therefore, those sentences are void.

If the Court will review the facts in this Case it will clearly see the issues raised in this case not only affect the Petitioner but Every Citizen in The State Of Ohio or in this Court granting the lower courts legislative authority to write within there desired sentencing structors new laws for the State of Ohio ? If this is the case than that brings to question where does this court get that authority, what part of the Ohio Constitution grants such authority.

CONCLUSION

So with reverence for this court, we respectfully ask this court to review these Constitutional Issues on behalf of the Petitioner and the Citizens Of Ohio and accept Jurisdiction.

Respectfully Submitted

Earl Ingels

Earl Ingels Pro Se. 9th Day and Month of November 2011

Certificate of Service

Petitioner does hereby certify tat a copy of this document was sent by ordinary U.S, Mail to the Hamilton Prosecutors Office at 230 East 9th St Cincinnati, Ohio 45202 on or about 9th Day Month of November Year 2011.

Earl Ingels Pro Se 362-813

Earl Ingels

STATEMENT OF INDIGENCY ON FILE WITH YOUR COURT.

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, :

11-1271

Plaintiff-Appellee, :

vs. : Case No. _____

Earl Ingels, :

Defendant-Appellant. :

AFFIDAVIT OF INDIGENCY

I, Earl Ingels, do hereby state that I am without the necessary funds to pay the costs of this action for the following reasons:

I am currently incarcerated at the Madison Correctional Inst. and I have been incarcerated since 1998. I work at the prison but receive only $19.00 dollars per month.

Pursuant to Rule XV, Section 3, of the Rules of Practice of the Supreme Court of Ohio, I am requesting that the filing fee and security deposit, if applicable, be waived.

Earl Ingels
AFFIANT

Sworn to, or affirmed, and subscribed in my presence this 19 day of July, 2011.

FILED
JUL 26 2011
CLERK OF COURT
SUPREME COURT OF OHIO

Julia K. Chamberlin
Notary Public
My Commission Expires

Julia K. Chamberlin
Notary Public-State of Ohio
My Commission Expires
10/22/2012

[Note: This affidavit must be executed not more than six months prior to being filed in the Supreme Court in order to comply with S. Ct. Prac. R. XV, Sec. 3. Affidavits not in compliance with that section will be rejected for filing by the Clerk.]