

ORIGINAL

BEFORE THE SUPREME COURT OF OHIO

STATE OF OHIO

PLAINTIFF-APPELLANT

-vs-

CHRISTOPHER ANDERSON

DEFENDANT-APPELLEE

CASE NO.: 12-1834

ON APPEAL FROM CASE NO. 11 MA 43
BEFORE THE COURT OF APPEALS FOR
THE SEVENTH APPELLATE DISTRICT

APPELLANT-STATE OF OHIO'S NOTICE OF APPEAL

PAUL J. GAINS, 0020323
MAHONING COUNTY PROSECUTOR

RALPH M. RIVERA, 0082063
ASSISTANT PROSECUTOR
Counsel of Record

OFFICE OF THE MAHONING COUNTY
PROSECUTOR
21 W. BOARDMAN ST., 6TH FL.
YOUNGSTOWN, OH 44503
PH: (330) 740-2330
FX: (330) 740-2008
pgains@mahoningcountyoh.gov
rrivera@mahoningcountyoh.gov

COUNSEL FOR PLAINTIFF-APPELLANT

JOHN B. JUHASZ, 0023777

7081 WEST BLVD., SUITE 4
YOUNGSTOWN, OH 44512
PH: (330) 758-7700
FX: (330) 758-7757
jbjurisdoc@yahoo.com

COUNSEL FOR DEFENDANT-APPELLEE

RECEIVED
OCT 29 2012
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
OCT 29 2012
CLERK OF COURT
SUPREME COURT OF OHIO

Notice of Appeal of Appellant-State of Ohio

Appellant-State of Ohio hereby gives notice of appeal to the Supreme Court of Ohio from the judgment of the Mahoning County Court of Appeals, Seventh Appellate District, entered in *State of Ohio v. Christopher Anderson*, Case No. 11 MA 43, on September 25, 2012, in which the Seventh District, sitting en banc, concluded (2-2) that the trial court's denial of Defendant's motion to dismiss the indictment based upon his right to Due Process and the prohibition against Double Jeopardy was a final appealable order pursuant to R.C. 2505.02. *See* S.Ct.Prac.R. 2.2(A)(6).

Defendant's notice of appeal was filed in the Seventh District on March 17, 2011. The State filed a motion to dismiss Defendant's appeal and argued that the trial court's denial of his motion to dismiss was not a final appealable order pursuant to R.C. 2505.02. The Seventh District (2-1) denied the State's motion on June 10, 2011.

The State filed an Application for En Banc Consideration and Reconsideration on June 20, 2011. The State's Application for Reconsideration was denied on October 4, 2011.

The State's Application for En Banc Consideration was granted on December 13, 2011.

On September 25, 2012, sitting en banc, a majority of the judges in the Seventh District were unable to concur on whether or not the trial court's denial of Defendant's motion to dismiss was a final appealable order; therefore, the original panel's decision in which the Seventh District denied the State's motion to dismiss Defendant's appeal remained. *State v. Anderson*, 7th Dist. No. 11 MA 43, 2012 Ohio 4390.

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

Respectfully Submitted,

PAUL J. GAINS, 0020323
MAHONING COUNTY PROSECUTOR BY:



RALPH M. RIVERA, 0082063
ASSISTANT PROSECUTOR
Counsel of Record

Office of the Mahoning County Prosecutor
21 W. Boardman St., 6th Fl.
Youngstown, OH 44503-1426
PH: (330) 740-2330
FX: (330) 740-2008
pgains@mahoningcountyoh.gov
rrivera@mahoningcountyoh.gov
Counsel for Appellant-State of Ohio

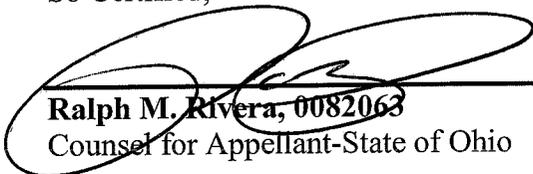
Certificate of Service

I certify that a copy of the State of Ohio's Notice of Appeal was sent by ordinary U.S. mail to the following parties on October 26, 2012:

John B. Juhasz, Esq.
7081 West Blvd., Suite 4
Youngstown, OH 44512

Timothy Young, Esq.
Ohio State Public Defender
Office of the Ohio Public Defender
250 E. Broad Street, Suite 1400
Columbus, OH 43215

So Certified,



Ralph M. Rivera, 0082063
Counsel for Appellant-State of Ohio