

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO

CASE NO. 2012-1856

Appellee

-vs-

ZACHARY L. RAGLE

Appellant

MEMORANDUM IN RESPONSE TO  
MEMORANDUM IN SUPPORT OF JURISDICTION  
OF APPELLANT ZACHARY L. RAGLE

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**EXPLANATION AS TO WHY THIS COURT LACKS JURISDICTION AND WHY  
THERE IS NO SUBSTANTIAL CONSTITUTIONAL QUESTION INVOLVED, THE  
CASE IS NOT OF PUBLIC OR GREAT GENERAL INTEREST, AND LEAVE TO  
APPEAL SHOULD NOT BE GRANTED.**

*Appeal Cannot be Considered By This Court Because the Issues Raised By the Appellant Are Not Properly Before This Court.*

In the case at bar the Appellant has raised three different propositions of law, which are essentially the same argument. (Appellant's Memorandum in Support of Jurisdiction, 6-12). The essence of Mr. Ragle's arguments are that there are certain findings that must be made to find someone guilty after a no contest plea, that the court of appeals did not consider the transcript of the plea because it was not filed with the court of appeals, and as such the court of appeals cannot affirm the finding that he is guilty. (Appellant's Memorandum in Support of Jurisdiction, 6-12).

Ohio Revised Code §2937.07 does provide for an explanation of circumstances following a no contest plea for a finding of guilt. Appellant argues that since the court of appeals does not know if that finding was made, it is not able to affirm the trial court's guilty finding. However, if a transcript is not filed, then this Court must find that the proceedings in the lower court were proper, unless there is other information properly before the Court that indicates otherwise. *In re M.D.*, 38 Ohio St. 3d 149,151, 527 N.E.2d 286 (1988). Mr. Ragle has not presented any other information to contradict the presumption that the guilty finding was handled properly by the trial court.

The Supreme Court of Ohio has stated that a reviewing court may consider only issues that were considered by the trial court. *State v. Golphin*, 81 Ohio St. 3d 543, 544, 692 N.E.2d 608 (1998), citing *State v. Ishmail*, 54 Ohio St.2d 402, 405, 377 N.E.2d 500 (1978). In that

case this Court found that since certain documents could not be considered by this Court, because they were never properly before the lower court of appeals. *State v. Golphin*, 81 Ohio St. 3d at 544. In that case the document in question was not filed in time to be considered by the appellate court, and for that reason could not be considered by this Court. *Id.*

Mr. Ragle admits in his memorandum that the transcript of the no contest plea was never filed with the court of appeals. In addition, the Appellant's argument regarding an improper guilty finding was never brought to the attention of the trial court or the court of appeals. For this reason, it may not be argued in this Court.

In the case at bar, the issue of whether the trial court judge considered evidence of the blood test in deciding to find the appellant guilty following the no contest plea was never preserved for appeal in the trial court. The same issue was not raised by the appellant in his brief to the Ninth District Court of Appeals. It has been raised for the first time in the Appellant's Memorandum in Support of Jurisdiction. For this reason, it cannot be considered by this Court. Even if the issue were somehow properly preserved, the transcript was never filed and cannot be considered. Therefore, these issues cannot be considered and are not properly before this Court.

*This Case Does Not Present Any Substantial Constitutional Question and Is Not a Case of Public or Great General Interest.*

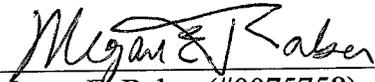
The issues raised by Mr. Ragle cannot be considered by this Court, because they have not been properly preserved for appeal or previously raised on appeal. In addition, this case does not present any substantial constitutional question and is not a case of public or great general interest.

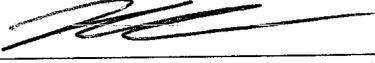
On appeal, the Ninth District Court of Appeals addressed both of Defendant-Appellant's original assignments of error. It simply found in a manner in which Appellant disagrees. Mr. Ragle would now like to make completely new arguments. There are no complex legal or factual issues of constitutional proportions present in the old or new arguments. There is no question of statutory interpretation and no conflict between Federal and State Constitutions. In addition, this case is not of public or great general interest. The matter does not involve issues of broad public concern.

As to each and every proposition of law raised in the memorandum in support of jurisdiction, none of propositions are properly before this Court as they have been raised for the first time in the Memorandum in Support of Jurisdiction.

Thus, leave to appeal should not be granted.

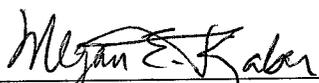
Respectfully submitted,

  
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**CERTIFICATION OF SERVICE**

A copy of the within Memorandum in Response was sent to Defendant-Appellant, Pro-Se, Zachary Ragle, 1085 Southeast Ave., Tallmadge, Ohio 44278 by regular U.S. mail, on the 29th day of November, 2012.

  
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