

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,	:	
	:	Case No. 2011-1473
Plaintiff-Appellee,	:	
	:	On Appeal from the Franklin County
vs.	:	Court of Appeals, Tenth Appellate
	:	District Case No. 10AP-1109
EMMANUEL HAMPTON,	:	
	:	
Defendant-Appellant.	:	

AMICUS CURIAE'S MEMORANDUM IN OPPOSITION TO MOTION FOR RECONSIDERATION

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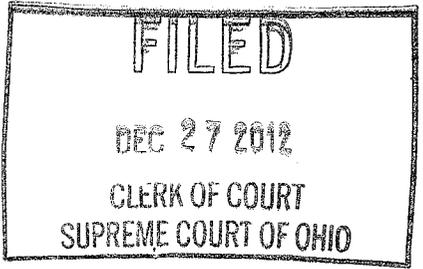
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On December 6, 2012, this Court issued its decision in this case and held that the failure to establish venue in a criminal felony trial is a basis for acquittal, and therefore, an acquittal order based on the failure to establish venue is a final verdict that cannot be appealed by the State. *State v. Hampton*, Case No. 2011-1473, Slip Opinion No. 2012-Ohio-5688, at ¶ 2. Further, this Court held that Crim.R. 29 is clear and straightforward and does not limit its application to “material” elements of the offense alone—the trial judge may grant an acquittal when there is a failure of proof to sustain a conviction. *Id.* at ¶ 23. Here, the court’s entry acquitting Mr. Henderson due to the State’s failure to establish venue and is a “final verdict” as used in R.C. 2945.67(A). *Id.* at ¶ 23.

Appellee State of Ohio now asks this Court to reconsider its decision. But this Court’s decision fully resolved the issues related to Mr. Hampton and the trial court’s proper response to the State’s failure to prove venue. The State’s motion is merely reargument and does not prompt reconsideration. S. Ct. Prac.R. XI(4). The State’s motion should be denied.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **AMICUS CURIAE'S MEMORANDUM IN OPPOSITION TO MOTION FOR RECONSIDERATION** was forwarded by regular U.S. Mail, postage prepaid to Steven L. Taylor , Franklin County Prosecuting Attorney, 373 South High Street, 13th Floor, Columbus, Ohio 43215 and Jonathan Tyack, Tyack, Blackmore & Liston Co., LPA, 536 South High Street, Columbus, Ohio 43215, on this 27<sup>th</sup> day of December, 2012.



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