ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,
Plaintiff-Appellee

-vs-

ERIC LEE PORTERFIELD,
Accused-Appellant

Supreme Court no: 13-0265

ELEVENTH DISTRICT COURT OF
Appeals no: 2012-T-0039

REBUTTAL TO STATES MOTION TO STRIKE PURSUANT TO S.CT. PRAC. R. 3.11 (D)(2)

ERIC LEE PORTERFIELD
INMATE #420-502
Mansfield Correctional Institution
1150 N. Main St.
Mansfield, Ohio 44901
PRO SE

Dennis Watkins (#0009948)
Prosecuting Attorney, by
Diane L. Barber (#0061639)
Assistant Prosecuting Attorney
Trumbull County Prosecutor's Office
160 High Street, N.W.
4th floor, Administrating Building
Warren, Ohio 44481

Attorney for Plaintiff-Appellee
STATE OF OHIO

RECEIVED
MAR 11 2013
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
MAR 11 2013
CLERK OF COURT
SUPREME COURT OF OHIO

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,
Plaintiff - Appellee

-VS-

ERIC LEE PORTERFIELD,
Accused - Appellant

Supreme court no. 13-0265

ELEVENTH DISTRICT COURT OF APPEALS no. 2012-T-0039

REBUTTAL TO STATES MOTION TO STRIKE PURSUANT TO S.CT. PRAC. R. 3.11 (D)(2)

Now comes the accused-Appellant, ERIC LEE PORTERFIELD who moves this Honorable Court to Dismiss the plaintiff-appellee the STATE OF OHIO Motion to strike appellant's Notice to Appeal and Memorandum in Support of Jurisdiction docketed February 11, 2013, for being untimely with their opposition/Notice of Appeal

As being an constant feculant response to all of the Many, Motion's, and Appeal's, filed by ERIC LEE PORTERFIELD in this court and the 11th district court of appeals, as well as, the trumbull county court of common pleas, by the plaintiff above, their assertion can be further away from the truth, then, the son of man's return, tomorrow. The plaintiff is a frequent asserter that, their only knowledge of any filing's made by ERIC LEE PORTERFIELD in this court is by persuing this court's website, which can be no further from the truth, then, the return of the son of man, tomorrow. ERIC LEE PORTERFIELD is indigent and can not afford (by Institutional Salary) to send each Motion or Notice of Appeal, by certified Mail, as proof of serving the prosecutor or each clerk of courts, his Motion's, opposition's, or

/and Noctice of Appeals. ERIC LEE PORTERFIELD makes amends to his infirmity by using the United States Of America's Mailing system by postage procedure U.S. Regular Mail, which only cost 56¢ an envelope. ERIC LEE PORTERFIELD takes advantage of this free opportunity and individually send the clerk of court (to the court at hand) and one to the prosecutor. Not one time in 12 yrs of this procedure has ERIC LEE PORTERFIELD gotten a return to sender, for whatever reason, from the prosecutor. So, ERIC LEE PORTERFIELD take it as being recieved by the prosecutor Luwayne Annos at the address stated in his certificate of service. The State states it was adversely affected by the accused utter failure to serve them a copy of his notice and memorandum. ERIC LEE PORTERFIELD has been adversely affected by an **factually illegal** sentence for the last 12 years. When this court has stated numerous times that failure to notify a defendant about PostRelease Control during the taking of the Plea is a "Complete failure to comply with the rule", which does not require an analysis of prejudice and requires an automatic vacation of the Plea, pursuant to crim. R. 11. as stated in State vs Boswell 120 ohio st. 3d 575; Simpkins, 117 ohio st. 3d 420; singleton which is referred to by the 11th district court of appeals in 2010 this is a violation of the accused due process rights afforded to him by the Ohio and united states ~~constitu~~ constitution's, and crim. R. 11 (C) (2) (A) and R.C. 2943.032. No court has the ~~ath~~ Authority to constitute a different sentence except that which is afforded by law. No where in the history of this action does the state argue this fact. The accuse can only (in good faith) pray that after he puts the envelope's in the institution's Mail system that it will arrive to its destination. Until this day,

accused has not recieved one return to sender from the prosecutor. Which indicates that, the state recieved it. To Manipulate the truth and try to cover up a grave Manifest injustice they cry that, they haven't recieved a copy, instead of fighting the truth, before them. Neither court, the 11th district court of appeals nor this court has jurisdiction or authority to accept a factually illegal case, when the sentence is factually illegal. The accused humbly ask this court to dismiss the states Motion to strike and deny jurisdiction of this case and remand it back to the 11th district court of appeals with further instructions to order the trumbull county court of common pleas to conduct a de novo sentencing hearing as it was authorized by law to do in its 2010 ruling to the accused application for reconsideration. Affiant saith Not.

Respectfully Submitted by

ERIC LEE PORTERFIELD

Pro Se

Certificate of Service

I do hereby certify that a true copy of this Rebuttal was sent to Diane L. Barber by ordinary U.S. Regular Mail to 160 High st Warren, ohio 44481 this 7th day of March, 2013

Pro Se