

NO. 2012-1861

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IN THE SUPREME COURT OF OHIO

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APPEAL FROM  
THE COURT OF APPEALS FOR CUYAHOGA COUNTY, OHIO  
NO. 97697

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STATE OF OHIO,

Plaintiff-Appellant

-vs-

TIMOTHY TATE,

Defendant-Appellee

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**REPLY BRIEF OF APPELLANT, STATE OF OHIO**

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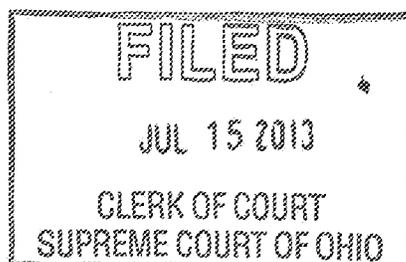
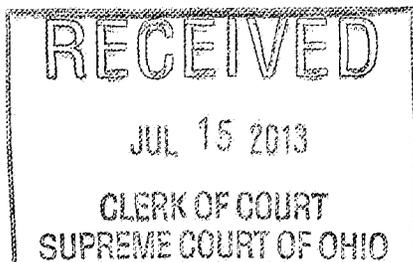
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**TABLE OF CONTENTS**

STATEMENT OF THE CASE AND FACTS ..... 1

LAW AND ARGUMENT ..... 1

    PROPOSITION OF LAW NO. I: IDENTITY IS ESTABLISHED WHERE A DEFENDANT  
    STIPULATES TO THE AUTHENTICITY OF CERTIFIED COPIES OF HIS OWN PRIOR  
    DOMESTIC VIOLENCE CONVICTIONS..... 1

CONCLUSION..... 1

CERTIFICATE OF SERVICE ..... 2

**TABLE OF AUTHORITIES**

**Cases**

*State v. Smith*, 8<sup>th</sup> Dist. No. 90476, 2008-Ohio-5985 ..... 1

*State v. Ward*, 130 Ohio App.3d 551, at 559, 720 N.E.2d 603 (1999)..... 1

## STATEMENT OF THE CASE AND FACTS

The State of Ohio relies on the statements of the case and facts as set forth in its Merit Brief of Appellant and adds the following update with respect to Defendant-Appellee Timothy Tate: on July 6, 2013, Defendant was released from his term of imprisonment for his domestic violence conviction in this matter and was placed under the supervision of the Ohio Adult Parole Authority for a period of three years.

<http://www.drc.state.oh.us/OffenderSearch/Details.aspx?id=A621098>

## LAW AND ARGUMENT

### ***PROPOSITION OF LAW NO. 1: IDENTITY IS ESTABLISHED WHERE A DEFENDANT STIPULATES TO THE AUTHENTICITY OF CERTIFIED COPIES OF HIS OWN PRIOR DOMESTIC VIOLENCE CONVICTIONS.***

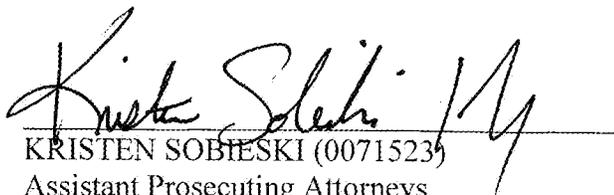
The State of Ohio met its burden of proof with respect to Defendant's prior domestic violence convictions via Defendant's stipulation. *State v. Smith*, 8<sup>th</sup> Dist. No. 90476, 2008-Ohio-5985, ¶ 55 citing *State v. Ward*, 130 Ohio App.3d 551, at 559, 720 N.E.2d 603 (1999). Defendant is a violent repeat offender who has attempted, through gamesmanship, to avoid a just and proper felony conviction by claiming that the stipulation he offered to the trial court was "limited". The record of this case demonstrates that the Timothy Tate convicted here and the Timothy Tate who was twice previously convicted in the Franklin County Municipal Court are the same man. Justice in this case, for this victim, and for the people of the State of Ohio, requires reversal of the Eighth District's decision and reinstatement of the Defendant's felony domestic violence conviction.

## CONCLUSION

The State of Ohio respectfully requests this Supreme Court of Ohio adopt its proposition of law, and reverse the majority's holding in *State v. Tate*, 8<sup>th</sup> Dist. No. 97697, 2012-Ohio-4276.

Respectfully Submitted,

**TIMOTHY J. MCGINTY (0024626)**  
**CUYAHOGA COUNTY PROSECUTOR**

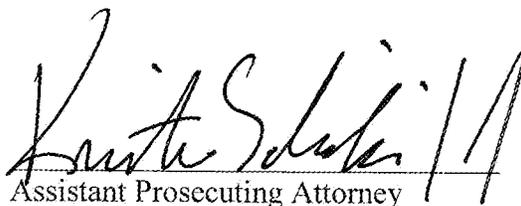


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**CERTIFICATE OF SERVICE**

A true and accurate copy of the foregoing Merit Brief of the Plaintiff-Appellant State of Ohio has been sent by regular United States Mail on this 12<sup>th</sup> day of July 2013 to the following:

Christopher R. Fortunato, Esq.  
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