

NO. 2012-2156

ORIGINAL

IN THE SUPREME COURT OF OHIO

APPEAL FROM
THE COURT OF CUYAHOGA COUNTY, OHIO
NO. 97531

STATE OF OHIO,

Plaintiff-Appellee

-vs-

CHRISTOPHER RICHMOND

Defendant-Appellant

MOTION TO CONSOLIDATE APPEALS

Counsel for Plaintiff-Appellee

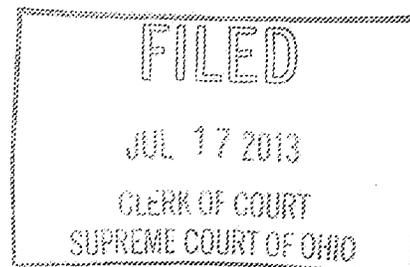
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IN THE SUPREME COURT OF OHIO

NO. 2012-2156

STATE OF OHIO,)	
Plaintiff-Appellee)	
-vs-)	CASE NO. CA 97531
CHRISTOPHER RICHMOND,)	
Defendant-Appellant)	

Now comes Cuyahoga County Prosecutor Timothy J. McGinty, by and through his undersigned assistant and on behalf of the State of Ohio, to hereby respectfully request this Honorable Court consolidate, for the purposes of oral argument, Defendant-Appellant Christopher Richmond's appeal with the appeal that is pending in *State v. Amos*, Docket No. 2012-2093. The reasons in support of this motion are set forth fully the attached brief.

Respectfully submitted,

TIMOHTY J. MCGINTY
CUYAHOGA COUNTY PROSECUTOR



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BRIEF IN SUPPORT OF CONSOLIDATION FOR ORAL ARGUMENT

Defendant-Appellant Christopher Richmond successfully petitioned this Court for jurisdiction in the instant case. The proposition of law to be considered is: When neither party request the preparation of a pre-sentencing investigation, a trial court's felony sentence of community control sanctions will not be disturbed on appeal in the absence of the most exigent circumstances.

Also currently pending before this Court is the matter of *State v. Amos*, Docket No. 2012-2093. In *Amos*, the Plaintiff-Appellant State of Ohio has submitted the following proposition: A trial court may not sentence a criminal defendant to community control sanctions without considering a presentence investigation report.

Both *Richmond* and *Amos* arise out of the Eighth District Court of Appeals and your undersigned counsel represents the State of Ohio in both cases. In each instance, the trial court sentenced a fifth degree felony offender to "time served" without first ordering a presentence investigation report. In both cases the State advocates the position that a trial court's failure to comply with the sentencing statute (by ordering a presentence report prior to imposing a community control sanction) constitutes plain error. In each case, the defense argues that it is not reversible error for a trial court to impose a "time served" sentence on a felony offender without first considering a presentence report. Both matters are governed by the same statute, criminal rule and precedent. Moreover both matters are in similar stages of the briefing process. Consolidation of these matters for purposes of oral argument and decision would further the interests of justice as well as the principles of judicial economy.

For all of these reasons, the State of Ohio respectfully requests this Honorable Court consolidate this matter with the pending case *State v. Amos*, Docket No. 2012-2093. As both of these cases share the same legal issue, the State requests the Court schedule a single, consolidated oral argument.

Respectfully submitted,

TIMOTHY J. MCGINTY
CUYAHOGA COUNTY PROSECUTOR

BY: 
Kristen L. Sobieski (0071523)
Assistant Prosecuting Attorney

SERVICE

A true and accurate copy of the foregoing Motion to Consolidate has been sent by regular United States Mail on this 17th day of July, 2013 to the following counsel for Defendant-Appellant Christopher Richmond:

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